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An Assessment of

Development and Production Potential of Federal Coal Leases

Volume II—Working Papers

Part G: Federal Coal Preference Right Lease Applications: Their History, Ownership, and Current Status

October 1982

CONGRESS OF THE UNITED STATES
Office of Technology Assessment
Washington, D. C. 20510

Preface

This volume contains papers written for OTA to assist in preparation of the report *An Assessment of Development and Production Potential of Federal Coal Leases.* OTA does not endorse these papers. In several instances, the OTA report reaches somewhat different conclusions because of additional information which was obtained later. These papers, however, may prove valuable for readers needing more detailed or specific information than could be accommodated in the final assessment report, and are being made available for such purposes.

OTA WORKING PAPER G

FEDERAL COAL PREFERENCE RIGHT LEASE APPLICATIONS: THEIR HISTORY, OWNERSHIP, AND CURRENT STATUS

FINAL REPORT

DECEMBER 1981

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Under Contract to the

OFFICE OF TECHNOLOGY ASSESSMENT

MATERIALS PROGRAM

CONGRESS OF THE UNITED STATES

WASHINGTON, D.C. 20510

OTA WORKING PAPER

This report is an OTA working paper used in the preparation of the OTA Report, An Assessment of Development and Production Potential of Federal Coal Leases. OTA working papers have not been reviewed or approved by the Technology Assessment Board.

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FOREWORD

Section 10 of the Federal Coal Leasing Amendments Act of 1976, Public Law 94-377 directed the Congressional Office of Technology Assessment to conduct an independent evaluation of the federal coal development rights that had been granted by the Government under the Mineral Leasing Act of 1920. As part of this study, OTA analyzed the current and past ownership of federal coal leases and preference right lease applications (PRLAs). This study was based on an examination of public land records and case files maintained by the Bureau of Land Management of the Department of the Interior. The OTA Technical Memorandum, "Patterns and Trends in Federal Coal Lease Ownership, 1950-1980," was published in March 1981. This report describes the current status of the pending applications and the issues surrounding their disposition. The report traces the ownership history of the 176 PRLAs that were actively pending in January 1980. It identifies the applicants, their industry category and type of business structure.

OTA's final report, An Assessment of Development and Production Potential of Federal Coal Leases, was published in December 1981. To the extent that information in OTA's final assessment report differs from information or conclusions in this report, the differences are due to changes occuring after research was completed. This report was prepared by James S. Cannon and Cheryl A. Stevenson, under contract to OTA. A discussion of legal issues affecting PRLAs and of PRLA production potential in Chapter II was contributed by Karen Larsen of OTA. Editorial assistance was also provided by OTA. Questions concerning this report may be directed to Ms. Karen Larsen, Associate Project Director for the OTA coal leasing study, Materials Program, Office of Technology Assessment, U.S. Congress, Washington, D.C. 20510, (202) 226-2269.

OTA WORKING PAPER

This report is an OTA Working Paper, which was used in the preparation of OTA's final assessment report. OTA makes these working papers available for the use of readers desiring a more detailed or technical discussion of an issue than can normally be accomodated in our final report. As an OTA working paper, this report has not been reviewed or approved by the Technology Assessment Board. The findings and conclusions expressed in the report are those of the authors and do not necessarily reflect the views of OTA, the coal leasing project advisory panel or the Technology Assessment Board.

Summary

Leases for federal coal lands are granted under the Mineral Leasing Act of 1920. The Act originally established two leasing mechanisms: competitive bidding for lands with known commercially valuable coal deposits and preference right leasing for unexplored areas. Under the preference right leasing system, exclusive prospecting permits were issued for lands where additional exploration was necessary to determine the existence or workability of coal deposits and a lease was awarded to a prospector who discovered quantities of coal in the permit area. During the 51-year period from 1920 to 1971, nearly half of all coal leases were issued under the preference right leasing mechanism. The Federal Coal Leasing Amendments Act ended preference right leasing except for those lease applications and prospecting permits that were in effect on passage of the Act. This report examines the patterns and trends in the ownership history of the 176 preference right lease applications that were pending after the 1976 amendments.

In January 1980, there were 176 preference right lease applications (PRLAs) under review by the Department of the Interior. These PRLAs are scattered among 7 western states--Alaska, Colorado, Montana, New Mexico, Oklahoma, Utah, and Wyoming. The applications cover a total of over 403,000 acres and contain an estimated 5.8 billion tons of recoverable coal reserves--this is equal to half of the acreage and about one third of the recoverable reserves already under lease. These applications stem from prospecting permits that were issued before the 1971 coal leasing moratorium.

While many of the legal, administrative and procedural issues related to the issuance or rejections of PRLAs have been addressed by DOI and the courts, a number of new questions are likely to arise as the applications are

processed and these must be resolved before the full production potential of the PRLAs will be known. It is clear that the amount of annual production they might contribute is substantial. However, environmental, legal, and technical considerations could lead to the rejection of some of the PRLAs or result in acreage modifications or the inclusion of lease stipulations that restrict subsequent coal mining.

OTA estimates that potential production from the PRLAs is probably between 35 million and 60 million tons per year depending on how the legal and environmental problems are resolved. OTA's estimates are substantially lower than DOI's 1978 estimates and reflect: 1) a reduction in DOI's estimates of in-place reserves to exclude underground subbituminous reserves in the Northern Plains; and 2) OTA's own analysis of the production potential of PRLAs in Wyoming, Colorado, and New Mexico conducted as part of the OTA analysis of existing leases in those states.

Each of the pending PRLAs covers land for which a prospecting permit was originally granted by the federal government, but ownership of many PRLAs has changed since permit issuance. Several pathways exist by which current PRLA holders have obtained applications. All prospecting permits were issued through de novo permitting, but only 11 percent of 1980 PRLAs (19 of 176) were still owned by the party who obtained the original prospecting permit directly from the Department of the Interior. Ownership of the other 89 percent of the PRLAs has changed at least once. Permit ownership can be transferred either through assignment or segregation of the acreage in the permit into two or more units (also called partial assignment). 133 PRLAs have been assigned; 27 of these have been transferred twice and 30 PRLAs have changed hands 3 or more times. 24 PRLAs were segregated.

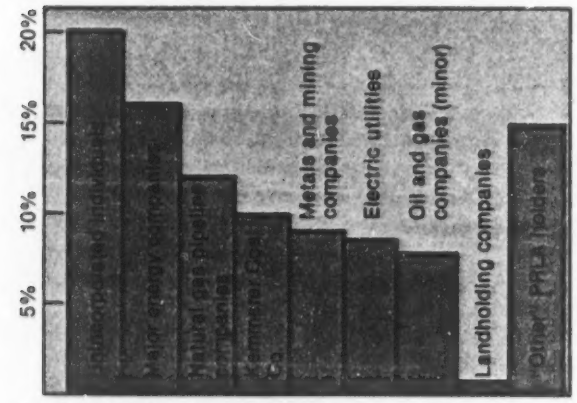
This survey examines preference right lease application ownership patterns and trends by separate companies, unincorporated individuals, and groups of companies with similar lines of principal business activity which collectively held PRLAs covering at least 5% of all land included in outstanding PRLAs on January 1 of 1970, 1975 or 1980. Figure I shows the PRLA holdings by business activity category by percentage of acres under application in 1980.

Unincorporated individuals are and always have been the largest category of permittees, although their share of PRLAs has been steadily declining. In 1980, individuals controlled 20% of the acreage in PRLAs.

The second largest holdings of PRLAs are by major energy companies--based on worldwide petroleum production. Four "energy majors" (The Sun Company, Atlantic Richfield Corp., Mobil Corp., and Gulf Oil Corp. which purchased Kemmerer Coal Company in 1980) hold 25 PRLAs covering 74,111 acres or 18% of all land under PRLAs in 1980. (A fifth energy major, Conoco, also holds PRLAs, but in 1981, Conoco was purchased by Dupont and is thus included under the nonresource-related diversified company classification in this survey).

Large natural gas companies, nonresource-related diversified companies and electric utilities have all increased their holdings of PRLAs rapidly in the past decade. These industries rank third, fifth, sixth and seventh in terms of total PRLA holdings in 1980. PRLA holdings by metals and mining

Figure 1—1980 PRLA Holdings by Business Activity Category (percent of total acres under permit)



SOURCE: Office of Technology Assessment.

companies, substantial in 1970 have doubled during the past decade, while those of land holding companies have markedly declined.

The type of business organization of permit holders has changed over the years. There are 4 distinct types of business entities holding PRLAs: unincorporated individuals; independent corporations; subsidiary corporations; and multicorporate entities. One reason for surveying the type of business organization of PRLA holders is that such information can provide important insights on the coal mining capability, financial resources, decisionmaking pathways, and responsiveness to government regulations of each application that can assist in determining the development potential of their PRLAs.

In 1980, 46% of the acreage in PRLAs was held by subsidiary corporations, companies wholly-owned by another corporation. Multi-corporate entities, including joint ventures or joint ownership of PRLAs by 2 or more companies, controlled 45 PRLAs and 22% of PRLA acreage. In 1980, holdings by unincorporated individuals had declined to 20% of PRLA acreage while independent corporations controlled only 12% of the PRLA acreage following a decade marked by corporate acquisitions and mergers.

The general trend in PRLA ownership over the past decade has been toward increased PRLA ownership by large, horizontally or vertically integrated, and diversified companies. PRLA ownership by individuals or small land holding companies without the technical or financial capability to inititate coal mining is on the decline. (These general trends are similar to those described in an analysis of the ownership history of federal coal leases between 1950 and 1980 in the OTA Technical Memorandum, Patterns and Trends in Federal Coal Lease Ownership 1950-1980, issued in March 1981.)

Chapter I
Introduction

Leases for federal coal lands are granted under the Mineral Leasing Act of 1920. Two leasing mechanisms the Act originally established: competitive bidding for lands where commercially valuable coal deposits were known to exist and preference right leasing for unexplored areas. Under the preference right leasing system, prospecting permits were issued for areas where additional exploration was necessary to determine the existence or workability of coal deposits. A prospector who could prove the discovery of commercial quantities of coal in the permit area was entitled to a noncompetitive prefer ence right lease. Preference right leasing of Federal coal leases was ended by passage of Federal Coal Leasing Amendments Act except for the lease appli cations and prospecting permits that were outstanding at passage of the Act.

During the 51 year period from 1920 to 1971, nearly half of all coal leases were issued under the preference right leasing mechanism. In 1971, the Department of the Interior imposed a near-moratorium on leasing of federal coal lands while it reviewed its leasing policies and procedures. As a result, the Department stopped issuing new prospecting permits and suspended processing of preference right lease applications (PRLAs) that were submitted by permit holders claiming discovery of commercial quantities of coal and, thus, the right to obtain a noncompetitive lease for qualifying areas within their permits. During the moratorium the Department continued to accept new preference right lease applications that were filed by holders of existing prospecting permits. In May 1976, the Department promulgated final regulations establishing new procedures for processing all pending and future preference right lease applications and setting a strict definition of commercial quantities. Shortly thereafter, on passage of the Federal Coal

Leasing Amendments Act of 1976, the Congress repealed the preference right leasing system and required that all federal coal leases would henceforth be awarded by competitive bidding. The repealer was made subject to "valid existing rights" thus allowing the prospecting permits and preference right lease applications that were then in effect to ripen into leases if all other requirements were met. However, adjudication of the PRLAs was further delayed by litigation and while the Carter administration conducted its review of Federal coal leasing policies.

Under the federal coal management program regulations issued in July 1979, all pending PRLA's are scheduled to be reviewed and leases issued to qualified applicants by 1984. When these applications are finally processed, it will bring to a close the history of federal leasing before major legislation in 1976-1977 changed the basic rules under which federal coal resources are managed: the Federal Coal Leasing Amendments Act of 1976, the Federal Land Policy and Management Act of 1976 and the Surface Mining Control and Reclamation Act of 1977.

In January 1980 there were 176 PRLAs in various stages of review by the Department of the Interior.* These applications cover a total of over 400,000 acres and contain an estimated 5.8 billion tons of recoverable coal reserves. While the production potential of the PRLAS will not be fully known until processing of the applications is complete, it is clear that amount of

*Strictly speaking, the term "PRLAs" refers only to applications for preference right leases that have been filed by holders of prospecting permits who claim discovery of a commercially valuable coal deposit. However, in this survey, which examines the history of each PRLA from the date of issuance of the original prospecting permit on which the application is based to the present, the terms PRLA and prospecting permit are generally used interchangeably, since only those prospecting permits that resulted in lease applications are examined.

production that they might contribute is substantial.

Chapters II and III of this report provides an overview of the history of the preference right leasing program, the current status of the PRLA and the issues that potentially will affect their dispostion. Chapters IV and V present the results of a study of Department of the Interior land records and case files that trace the ownership history of these PRLAs and detail the past and present patterns of PRLA holdings by industry category and business structure of the applicants. Consideration of the different industry experience, financial and technical capabilities, business priorities, and management structures of the applicants can prove valuable in assessing the potential future production from the PRLAs and in making policy choices in response to issues raised during processing of the preference right applications.

The general methodology used for much of the PRLA ownership data collection and analysis was developed during the preparation of a companion report on the ownership history of federal coal leases. Frequent reference to that study, Patterns and Trends in Federal Coal Lease Ownership,* is made throughout this report. The reader is referred to that study for more in-depth discussions of the issues and implications raised by different ownership patterns and trends and for a more complete explanation of the research methodology than the brief summary presented in Chapter VI of this report. Finally, the appendix includes a list of preference right lease applications surveyed in this report. The initial draft of this report was distributed for review in December 1980. This final report incorporates the results of that review and has been updated to reflect changes in PRLA ownership that occured during 1981.

*United States Congress, Office of Technology Assessment, "Patterns and Trends in Federal Coal Lease Ownership, 1950-1980," was published in March 1980 and is available through the U.S. Government Printing Office, GPO Stock Number 052-003-00799-1.

CHAPTER II

Background and Issues

In January 1980, there were 176 preference right lease applications (PRLAs) under review by the Department of the Interior. The applications cover a total of over 403,000 acres and contain an estimated 5.8 billion tons of recoverable coal reserves--this is equal to half of the acreage and about one third of the recoverable reserves already under lease. These applications stem from prospecting permits that were issued before the 1971 coal leasing moratorium when the Department suspended processing of applications for preference right leases and prospecting permits while it reviewed its overall leasing policies. With few exceptions,* most of these PRLAs remained unprocessed during most of the 1970's: first, because of the moratorium; then to allow for the development of new leasing policies; and , finally, by litigation. Following promulgation of final coal management program regulations in July 1979, processing of the PRLA's was resumed. All PRLA's should be adjudicated and leases issued to qualified applicants by 1984.

While many of the legal, administrative and procedural issues related to the issuance or rejections of PRLAs have been addressed by DOI and the courts, a number of new questions are likely to arise as the applications are processed and these must be resolved before the full production potential of the PRLA's will be known. Environmental legal and technical considerations could lead to the rejection of some of the PRLAs or result in acreage modifications or the inclusion of lease stipulations that restrict subsequent coal mining. This section provides a brief summary of the major developments

*Two exceptions to the suspension on processing preference right lease applications did occur during brief lifting of the moratorium in 1976. Though significant because of their large size--each lease is over 8,000 acres--they represented only a small fraction of the acreage under PRLA at the time.

affecting PRLA's and discusses the issues that remain to be resolved during the processing phase.

As a result of the internal review of leasing policies conducted by the Department in the early 1970's, new procedures and criteria for issuing prospecting permits and approving PRLAs were adopted in final regulations promulgated in May 1976. These regulations formally defined the standard to be used for determining whether a prospector had discovered "commercial quantities" of coal and was entitled to a preference right lease under section 2(b) of the Mineral Leasing Act of 1920. The regulations also specified new requirements for information to be submitted by applicants in a new a two-phase adjudication procedure. In August, the Federal Coal Leasing Amendments Act of 1976 Public Law 94-37 repealed, subject to valid existing rights, the Mineral Leasing Act provisions for noncompetitive preference right leasing of federal coal reserves. The "valid existing rights"provision preserved the rights of prospecting permit holders and lease applicants and allowed these to be perfected into leases. Litigation brought by the Natural Resources Defense Council and several other environmental groups delayed processing of these applications until the Department of the Interior met with the provisions of the court order requiring compliance with the National Environmental Policy Act. While many applicants moved to comply with the new requirements, in at least two other cases, the Department was sued by applicants who contested the applicability of the May 1976 regulations or departmental decisions made during the leasing moratorium. One result of the litigation involving the PRLAs was that in several decisions, federal courts have upheld the applicability of the 1976 regulations on commercial quantities and adjudication procedures to the pending applications.

Processing of these applications has now resumed and during 1981 several PRLA's were approved and leases issued. Review of the pending applications by DOI and OTA's own analysis identified several important issues that will be resolved as the PRLAs are adjudicated.

The Preference Right Leasing Program

Under Section 2(b) of the 1920 Mineral Lands Leasing Act, prospecting permits could be issued for areas where commercial deposits of coal were unknown. The purpose of this provision, similar to prospecting permit provisions for other leasable minerals and to the location patent system under the mining law, was to encourage the exploration and development of mineral resources on public lands. A successful prospector, upon showing discovery of a valuable deposit during the term of the permit, was entitled to a non-competitive preference right lease. About half of the existing Federal coal leases were issued through the preference right lease mechanism. Section 4 of the Federal Coal Leasing Amendments Act of 1976 (FCLAA), repealed the authority to issue preference right leases except for PRLAs and prospecting permits that were pending on the date of its enactment.[1] Because the 1976 repeal was subject to valid existing rights, the pending permits or applications for preference right leases were not affected and could be perfected into leases. Any leases issued would, however, be governed by new lease terms imposed by FCLAA.

Before its repeal in the 1976 amendments, section 2(b) of the Mineral Leasing Act of 1920 provided:

> Where prospecting or exploratory work is necessary to determine the existence or workability of coal deposits in any unclaimed, undeveloped area, the Secretary of the Interior may issue, to applicants qualified under this chapter, prospecting permits for a term of two years, for not exceeding five thousand one hundred and twenty acres; and if within said period of two years therafter the permittee shows to the Secretary that the lands contain coal in commercial quantities, the permittee shall be entitled to a lease under this chapter for all or part of the land in his permit.[2]

A prospecting permit could be extended for 2 years; however, the approval of extensions was discretionary. In practice, they appear to have been

granted routinely at the request of the permittee. In order to qualify for a preference right lease, the prospector had to submit an application accompanied by evidence showing the discovery of commercial quantities of coal within the permit area before the expiration date of the permit.

Processing PRLAs

As a result of an internal review of DOI procedures and criteria for issuing prospecting permits and approving PRLAs conducted during the moratorium, new regulations were issued in May 1976 governing all pending and future PRLAs.[3] The regulations formally defined the standards for determining "commercial quantities" under the Mineral Leasing Act, specified the information to be submitted, and established a two-phase adjudication procedure. The internal review had disclosed that, in some instances, the less stringent "workability" standard had been used mistakenly to determine whether a PRLA should be issued rather than the stricter "prudent person" test.[4] The regulations adopted the "prudent person" standard used under the Mining Law to patent mining claims as the appropriate test for determining if commercial quantities of coal had been discovered entitling the prospector to a lease.

Under the regulations, the commercial quantities standard requires that "the coal deposit discovered...shall be of such character and quantity that a prudent person would be justified in further expedition of his labor and means with a reasonable prospect of success in developing a valuable mine." The applicant must present "sufficient evidence to show that there is a reasonable expectation that revenues from the sale of the coal shall exceed the cost of developing the mine and extracting, removing, transporting, and marketing the coal." Mining costs include expenses for environmental protection, reclamation, and compliance with applicable State and Federal laws and

TABLE II-1

PROCESSING PREFERENCE RIGHT LEASE APPLICATIONS

Review of application and initial showing	
1. Review completeness and adequacy of application.	***Reject PRLA*** for failure to meet MLA requirements if: —Not filed before prospecting permit expired; —Not signed by qualified applicant; —Advance rental not paid; or —Evidence of discovery of commercial quantities not submitted.
2. Review completeness of initial showing.	***Reject PRLA*** if: —Initial showing not filed; or —Initial showing not timely filed.
3. Determine whether PRLA conflicts with valid mining claims.	Delete areas covered by valid mining claims located before Multiple Mineral Development Act (1954) and the date prospecting permit was issued. (Claims must be filed with BLM as required by FLPMA to be presumed valid); notify applicant of conflict and of procedures for contesting validity of adverse mining claims.
4. Request additional information needed for initial showing and mining claims reviews.	
5. Determine adequacy of initial showing.	***Reject PRLA*** if: —Initial showing fails to show any coal or such limited reserves or low quality coal that mining could not be expected to take place; or —After deletion of mining claims, initial showing fails to show sufficient reserves remaining to sustain proposed commercial development. ***Accept initial showing*** if all requirements are met; refer application for technical review and environmental assessment.
Technical review and environmental assessment	
1. Establish priority for review of PRLA in land use planning process.	Schedule accelerated review on applicant request.
2. Conduct environmental analysis including unsuitability criteria.	Prepare environmental assessment (EA) or draft environmental impact statement (EIS).
3. Review adequacy of EA or EIS: consult with Governor, Surface Management Agency, other agencies, and public. Issue final EA/EIS.	Request comments on adequacy of EA/EIS, proposed lease terms, stipulations. Hold public hearing. Prepare final EA/EIS.
4. Set proposed lease terms, conditions, rental, royalties, bonding, MER, and minimum production requirements.	
5. Request applicant to submit "final showing" of commercial quantities.	
Review of final showing	
1. Determine completeness of final showing.	***Reject PRLA*** if applicant fails to submit final showing. Request additional information needed for final showing.
2. Determine whether applicant meets commercial quantities test.	Has applicant demonstrated discovery of a coal deposit of such character and quality that a prudent person would be justified in further expenditure of his labor and means with a reasonable prospect of success in developing a valuable mine with a reasonable expectation that the revenues from the sale of the coal will exceed the costs of developing the mine ***and*** extracting, removing, transporting, and marketing the coal? (NOTE: Applicant may delete areas that are recommended as unsuitable for mining from application before final showing to exclude costs of mining these areas.)
3. Issue final decision on PRLA.	***Accept PRLA and issue lease*** if applicant meets all requirements and commercial quantities test. ***Reject PRLA*** if applicant does not meet commercial quantities test on final showing. ***Negotiate*** with applicant for exchange of PRLAs that meet commercial quantities test but pose environmental or other problems if developed.

SOURCE: Bureau of Land Management, Instruction Memorandum 79-646 (revised), Solicitor's Opinion M-36893, as revised, Jan. 8, 1981.

regulations.[5]

Under the new adjudication procedure, the application was to be accompanied by an "initial showing" of discovery of commercial quantities. The showing must include reserves estimates and supporting geologic data, maps, and a description of the proposed mining operation. Holders of pending PRLAs were notified to supplement their applications with the required initial showing. (Table II-1 shows the adjudication steps in processing PRLAs.) The application and initial showing are first examined for completeness and compliance with other Mineral Leasing Act requirements. Incomplete or insufficient applications can be rejected at this stage, however in many instances, the applicant will be given an opportunity to supplement or correct the missing data. If the PRLA is rejected then or later in the process, the decision can be appealed administratively to the Interior Board of Land Appeals.[6]

The initial showing is followed by a technical examination and environmental assessment from which proposed lease terms and stipulations are formulated. The environmental assessment includes a site-specific analysis to evaluate the suitability of the area for mining, consultation with State government, and preparation of either an environmental assessment (EA) document, or an EIS as required under NEPA. In the technical examination, the Geological Survey reviews the adequacy of the initial showing and recommends lease terms and conditions and bonding, MER, and minimum production requirements for diligence.

The applicant is then provided with the proposed lease terms and stipulations (including rentals and royalties), the EA or EIS, and other relevant information and allowed 90 days to submit a "final showing" of

commercial quantities. The final showing must include the applicant's estimated production, estimated revenues, and mining and reclamation costs. The estimates must have a reasonable factual basis and reflect all costs that a prudent person would consider before deciding to develop a mine. It must demonstrate that the deposit can be profitably mined and marketed under the proposed lease terms and applicable State and Federal laws. If all the requirements of the final showing are satisfactorily met, the applicant is entitled to a lease.

Litigation Involving PRLAs

The Department's decisions on preference right leasing were challenged on many fronts: environmentalists sued seeking rejection of some PRLAs on environmental grounds; applicants sued arguing that the delay in processing the applications was unreasonable and that the May 1976 regulations should not be applied to existing applications; and finally, Congress repealed the provision allowing noncompetitive preference right leasing except for valid existing rights. There have been three major lawsuits involving the Department's handling of PRLAs and in all three cases, the Department's May 1976 regulations have been upheld.

NRDC v. Berklund

In March 1975, the Natural Resources Defense Council and the Environmental Defense Fund sued DOI arguing that an environmental impact statement must be prepared before issuance of any PRLA that involved a "major Federal action significantly affecting the environment;" and that the Secretary had the authority under the Mineral Leasing Act of 1920 and NEPA to

reject any PRLA where mining would have an adverse impact on the environment.

In June 1978, the District Court of the District of Columbia held that the Secretary has no discretion to reject a PRLA if the applicant successfully meets the commercial quantities test and other requirements of the Mineral Leasing Act. However, the court further found that NEPA requires the preparation of an EIS before the issuance of any lease where such action is "a major Federal action significantly affecting the environment."[7]

The court observed that NEPA requires the Secretary to "exercise his authority to safeguard society and prevent irreparable damage to the environment through a careful and complete formulation of lease terms." The court noted that the Secretary has broad powers to establish strict standards for proposed lease terms that could make compliance with the commercial quantities test difficult or impossible by making the mining costs exceed the market value of the coal. Thus, while DOI cannot deny a PRLA solely for failure to meet environmental requirements, the court stated that "if a permittee does not have the technological capability to comply with (strict environmental) standards, the high cost of compliance will outweigh potential coal revenues and he will fail the commercial quantities test."

In preparing an EIS before approving a PRLA, the Berklund court ruled that the Secretary must consider at least three alternatives:

- o exchange of the PRLA for a mineral lease of comparable value or coal bidding rights;[8]
- o issuance of the lease with lease terms to protect against irreparable damage to the environment as required by NEPA, which will determine whether the permittee will meet the commercial quantities test, which

in turn will determine whether the lease will be issued; and

- o if the applicant will not agree to an exchange and the lease terms do not defeat the commercial quantities showing, withdrawing the lands or asking Congress for legislation cancelling the lease on payment of just compensating.[9]

By clear implication, the decision upheld the application of the 1976 commercial quantities regulations. The decision was affirmed by the U.S. Court of Appeals in November 1979. The 1979 coal management program regulations include provisions for the environmental review required by NEPA under the Berklund decision as part of the unsuitability review and for consideration of possible exchanges of PRLAs with environmental problems.[10]

Utah International, Inc. v. Andrus (Utah)

Utah International, Inc. sued DOI challenging the delay in processing the application and seeking a judgment that the May 1976 PRLA adjudication procedures and commercial quantities regulations could not be applied to its southern Utah PRLA which was filed before they were promulgated. Utah International also asked the court to rule that any lease based on its PRLA would have the lease terms in effect on date of application rather than post-FCLAA requirements.

The Utah Federal district court held against Utah International.[11] The court ruled that the 1976 regulations were proper and that an applicant does not acquire a vested right to a lease or to specific lease terms or to have its application judged under a particular standard simply by filing an application. The court further ruled that an applicant could not sue over the use of the commercial quantities test to evaluate its PRLA until after DOI had made a final decision approving or rejecting the application and the applicant had all exhausted administrative appeals in DOI.

Utah International, Inc. v. Andrus (Colorado)

Utah International, Inc. also sued DOI over processing of a PRLA in Colorado--this time with more success.[12] The Colorado Federal district court decision cited the result in the Utah case with approval, noting that it is

within the authority of the Secretary to act to correct errors in the administration of programs committed to his discretion, thus it was proper to issue new regulations for processing PRLAs and to establish a corrected commercial quantities test fully applicable to pending applications.

The Colorado court distinguished the PRLA in the case before it from other PRLAs by finding that DOI had made a final and binding determination of discovery of commercial quantities on the PRLA in 1970 before the effective date of the new regulations and the moratorium. Having made a final decision, DOI could not subsequently reopen the case to apply its later requirements. DOI was ordered to process the application. The court further held that the applicant, Utah International, was not entitled to the lease terms in effect when its application was approved, but rather the Secretary had full discretion to set the terms and conditions of the lease. The case was appealed by both DOI and the plaintiff, Utah International. Its value as precedent for other PRLAs is limited since the decision was based on the specific circumstances of the case. During appeal, the Department moved to process the PRLA and to negotiate a settlement of the case with Utah International.

Other Legal and Administrative Issues Related to PRLAs

Conflicts with Mining Claims

Under section 2(b) of the Mineral Leasing Act of 1920, coal prospecting permits could be issued only on "unclaimed, undeveloped" lands. A 1977 Solicitor's Opinion (Solicitor's Opinion No. M-36893), interpreting the meaning of "claimed" as any land on which a valid mining claim had been filed under the Mining Law of 1872 and was present at the time the prospecting permit was issued, raised the prospect that many pending PRLAs would be

invalid in those areas in which they overlapped mining claims.

In response to this Opinion, in August 1977, PRLA holders were asked to submit a "certified abstract of title" within 160 days listing previous mining claims affecting land within their PRLA. The submitted abstracts revealed that at least 20 PRLAs were covered in part or in whole by mining claims that had been filed before the coal prospecting permits were issued.

On November 19, 1979, the Solicitor issued a Supplemental Opinion which concluded that prospecting permits previously issued in "claimed" or "developed" areas are void and clarified the meaning of the terms "unclaimed" and "undeveloped" under the Mineral Leasing Act. The term "unclaimed" refers to the absence of valid mining claims. The term "undeveloped" means the lack of surface mineral activities associated with the delineation of an ore body or mineral resource which could reasonably be expected to disclose knowledge of an area's coal or phosphate potential. The Supplemental Opinion noted that holders of PRLAs "have an opportunity through private contests, submission of evidence of an area's status, or by rebutting a show cause order, to show that the lands under application were 'unclaimed, undeveloped' at the time of prospecting permit issuance."[13]

Review of the Solicitor's Opinion on unclaimed areas resulted in a third opinion issued January 8, 1981. This third opinion concluded that only claims filed before enactment of the Multiple Mineral Development Act of 1954 could adversely affect PRLAs. The opinion further concluded that it is sufficient to only check BLM land office records for evidence of mining claims thus allowing DOI to dispense with the requirement for certified abstracts.

The results of this third Solicitor's Opinion on the "unclaimed,

undeveloped" issue could make processing of PRLAs simpler and could result in some PRLAs being approved although they might contain conflicting mining claims for other minerals. The Multiple Mineral Development Act of 1954 provides that mining claims located after the date of its passage do not carry with them the right to leasable minerals, including coal.[14] The mining claim does not create a conflict with a PRLA and the government may lease the coal, phosphate, oil, and gas and other leasable minerals on these lands.

The elimination of the requirements for submission of certified abstracts makes use of provisions of Section 314 of the Federal Land Policy and Management Act of 1976. FLPMA requires that holders of unpatented mining claims file information on the location of their claim and an affadavit of assessment work performed with the BLM by October 21, 1979, and annually thereafter.[15] Failure to file this information is deemed conclusively to constitute abandonment of the claim. Before this provision was enacted, there often was no feasible procedure available to BLM or the coal prospector to determine the presence of mining claims on lands covered by applications for prospecting permits.

Under the third Solicitor's Opinion, the portions of a PRLA covered by valid prior claims would be deleted from lease consideration and might reduce the lease acreage of some PRLAs and perhaps completely disqualify others.

Existence and Workability of Coal Deposits

In addition to the requirement that the lands available for coal prospecting permits must be free of conflicting mining claims, the Mineral Leasing Act specified that permits could only be issued "where prospecting or exploratory work was necessary to determine the existence or workability" of

coal deposits. In deciding whether a prospecting permit could be issued, USGS used a classification standard of workability that assumed that any commercial coal deposits were marketable and which focused on whether the known physical characteristics of the coal deposits indicated that the value of the coal was greater than the costs of extraction. This less stringent classification standard of workability was for some years mistakenly used to determine whether a permittee was entitled to a lease. This misunderstanding was corrected by DOI in the 1976 commercial quantities regulations which required that applicants show that coal could be mined and marketed at a profit. This confusion over the correct application of the workability test raised questions about whether some lands had correctly been open to prospecting.

Some environmental groups have argued that several Wyoming prospecting permits were issued on lands with abandoned underground mine workings or surface coal outcrops and that such lands should have been classified as areas with known coal deposits. Issuance of prospecting permits in such areas would violate the statutory requirement that known deposits must be leased competitively. However, in 1979 in rulemaking for the new coal management program, DOI rejected a proposal to reexamine PRLAs for errors in determining the presence of known deposits. DOI "will continue to give these determinations a presumption of administrative regularity;" however, "if a case file does not contain the required conclusion by USGS that a prospecting permit could be issued then the presumption of administrative regularity does not apply," and DOI "will examine in such a case whether the permit was properly granted." In effect, this decision severely restricts the cases where approval of a PRLA can be challenged because of circumstances surrounding issuance of the original prospecting permit.

Potential Production from PRLAs

During the development of the Federal coal management program adopted in 1979, DOI convened an internal working group to review the pending PRLAs and to estimate how much they might produce taking into account various legal, planning and environmental restrictions that might affect their issuance. (The results of this working group were published as Task Force Paper No. 124, "An Evaluation of Coal Preference Right Lease Applications," April 1978.) The task force found that 105 of 172 applications submitted to BLM did not contain information proving that commercial quantities had been discovered, but rather stated that the requisite data had been provided to the U.S. Geological Survey. Seventy-five PRLAs were filed without the required qualifications statement describing the applicant, and 70 PRLAs were filed without precise descriptions of the acreage covered by the application. In addition, 25 PRLAs did not file initial showings in a timely manner required under the 1976 regulations.

These so called "procedural irregularities" in the applications do not mean that the PRLA will be rejected. In most instances, the regulations or DOI practices allow the applicant to correct the application by supplying the required information. If the applicant does not respond with the requested information then the application can be rejected. (See, for example, 43 CFR 3430-2.2,(1980.))

Coal Task Force Paper No. 124 identified six PRLAs that did not properly indicate the existence of recoverable reserves and four PRLAs that were not filed before the expiration date of the prospecting permit. Several of these PRLAs have subsequently been rejected, because they did not comply with express requirements of the Mineral Leasing Act.

Task force 124 also identified a number of surface resource conflicts on the lands covered by the PRLAs that might result in deletion of portions of the lands from the lease or in special stipulations restricting mining activities on the lease. Table II-2 from task force 124 shows the number of PRLAs in each state affected by planning and environmental restrictions. OTA reviewed the working documents used by the task force to determine what types of conflicts were identified and what the probable result would be on PRLA issuance under the DOI coal program regulations issued after the 1978 DOI review. OTA found that among the environmental conflicts were areas identified as critical winter range for game animals, nesting areas and buffer zones for golden eagles and peregrine falcons, bison winter range, habitat for rare, threatened, and endangered species of animals and plants, possible alluvial valley floors, and areas identified by state agencies as having high wildlife values. Other surface resource conflicts listed were paleontoligical and archeological sites, petrified fossil forests, and scenic badlands topography. One area in Wyoming was recommended as suitable only for underground mining because it contained public water reserves and a surrounding buffer zone.

Several PRLAs in New Mexico were found to be on lands where there were Navajo surface occupants and requiring where special consideration of any conflicts between their rights and the special protection owed them by the government and possible mineral development. (The problems involving Navajo surface occupants are addressed in more detail in the OTA New Mexico Task Force report.)

Based on their review, DOI estimated that the potential production from the PRLAs was between 186 million to 248 million tons per year. The potential

TABLE II-2

PRLAs AFFECTED BY PLANNING AND ENVIRONMENTAL RESTRICTIONS - SIX STATE SUMMARY

Coal Preference Right Lease Applications

State	Total Number PRLAs	Restrictions					
		Probable		Possible		Legal Planning/ Environment	Other
		All	Portion	All	Portion		
Colorado	37	3	0	7	5	1	0
Montana	4	0	0	0	0	0	0
New Mexico	28	0	0	0	3	1	0
Oklahoma	4	0	0	0	0	0	0
Utah	25	1	1	0	0	15[1/]	0
Wyoming	74	0	2	13	7	4	5[2/]
TOTALS	172	4	3	20	15	21	5

[1/] Planning and environmental restrictions allow only underground mining.

[2/] Planning and environmental restrictions allow only underground mining; all reserves are underground.

Source: U.S. Department of the Interior, Task Force Paper No. 124, Table 7.

impact of the various legal, planning, and environmental restrictions on PRLA issuance and hence production was probably overestimated in the DOI review. OTA's examination of the data used in preparation of the working paper disclosed that most of the environmental restrictions related to wildlife concerns would probably result in special lease stipulations on impact mitigation rather than in deletion of reserves from the PRLA. Many legal problems, such as incomplete applications, are curable during the adjudication process under regulations allowing the applicant an opportunity to submit additional data. Other legal problems, such as failure to submit any information about the quantity and quality of reserves discovered, probably would result in rejection, however, only a few applications did not contain this information, so the probable impact is small.

OTA estimates tht potential production from the PRLAs is probably between 35 million and 60 million tons per year depending on how the legal and environmental problems are resolved. About 10 million tons of this annual production is associated with new mines on existing Federal leases in Colorado and New Mexico. OTA's estimates are substantially lower than DOI's 1978 estimates and reflect: 1) a reduction in DOI's estimates of in-place reserves to remove underground subbituminous reserves in the Northern Plains; and 2) OTA's own analysis of the production potential of PRLAs in Wyoming, Colorado, and New Mexico conducted as part of the OTA analysis of existing leases in those states. Even these lower estimates of the production potential of the PRLAs still indicate that they could make a substantial contribution to coal supply in 1990-1995. (For more information on OTA's analysis of the production potential of PRLAs see Chapters 3, 7 and 9 of OTA's final report, An Assessment of Development and Production Potential of Federal Coal Leases. December 1981.)

FOOTNOTES

1. Public Law 94-377, 90 Stat. 1085. There were about 192 prospecting permits pending on passage of FCLAA and 28 prospecting permits. The number of PRLAs has dropped as some applications were rejected and now fluctuates between 171 and 178 depending on the results of various appeals of rejected applications. All prospecting permits have since expired. As of March 1981, the number of PRLAs had dropped to 171 as a result of: 1) addition of two new applications because of litigation challenging the DOI's denial of extensions of prospecting permits for which applications had been filed at the time the 1976 FLCAA was enacted; and 2) the withdrawal of seven applications.

2. Act of February 25, 1920, C. 85, Section 2, 41 Stat. 438.

3. 41 F.R. 18845, May 7, 1976.

4. According to the Preamble to the Proposed Rules, use of the workability standard for classification resulted in a determination of commercial quantities "based solely on the physical characteristics of the mineral without regard to costs such as transportation and reclamation." The use of this standard was rejected. 41 F.R. 1648, January 19, 1976.

5. 43 CFR 3430.1-2.

6. 43 CFR 3430.5.

7. NRDC v. Berklund, 458 F. Supp. 925 (D.D.C. 1978).

8. The ability of DOI to exchange leases or PRLAs for unleased Federal coal without specific congressional approval is relatively limited, but 43 CFR 3435.1 allows PRLAs to be reqlinquished in exchange for other rights, including: 1) the issuance of coal lease bidding rights of equal value; 2) a mineral lease other than coal by mutual agreement of the applicant and DOI; and 3) modification of other coal leases held by the applicant to add up to 160 acres of coal land to each lease.

9. 458 F. Supp. 938. The decision notes that it left open the question of whether such withdrawal would constitute a "taking" since, under 43 U.S.C. 1701, withdrawals are subject to valid existing rights.

10. NRDC v. Berklund, 609 F. 2d 553 (D.C. Cir 1979).

11. 448 F. Supp. 962 (D. Ut. 1979).

12. 448 F. Supp. 988 (D. Colo. 1979).

13. Bureau of Land Management Instruction Memorandum No. 76-646, change 2, Dec. 19, 1979.

14. See 30 U.S.C. 521-523, especially 30 U.S.C. 524, 525, 526 and 527.

15. 43 U.S.C. 1744.

16. 44 F.R. 42599, July 19, 1979.

CHAPTER III

OVERVIEW OF PREFERENCE RIGHT LEASING AND THE PENDING PREFERENCE RIGHT LEASE APPLICATIONS

Congress established the preference right leasing program under the Mineral Leasing Act of 1920 to promote the exploration of the vast unexplored public land areas in the West. The provisions made available low cost prospecting permits for public land where the presence of commercial deposits of coal was unknown. The successful applicant for a prospecting permit paid an initial $10 filing fee plus a yearly rental of 25¢ per acre and in return, received the exclusive right to explore the land for two years (renewable once) and the right to obtain a noncompetitive coal lease if commercial quantities of coal were discovered in the permit area.

Preference right leasing was very popular. About half of the 800,000 acres of federal coal land now under lease was leased through the preference right system. This total does not include the hundreds of prospecting permits issued which did not result in preference right leases, nor do they include the few preference right leases that were later relinquished or cancelled.

The rate of leasing federal coal land increased steeply in the years following World War II until it was slowed by the Department of Interior's informal leasing moratorium, announced in May, 1971. As a result of the moratorium, the issuance of new prospecting permits was suspended. By the end of December, 1971, 604 prospecting permit

applications covering 2,156,364 acres--three times the total land under lease by any method--had accumulated in the state Bureau of Land Management (BLM) offices. The Department later denied all these applications. Congress ended the entire preference right system for coal leases through Section 4 of the Federal Coal Leasing Amendments Act of 1976, by repealing the authority for preference right leasing except for valid existing permits and applications and requiring that all federal coal lands be leased by competitive bid.

The leasing suspension complicated the disposition of those prospecting permits issued prior to the moratorium for which preference right lease applications had not yet been filed. When the terms of these permits expired, most permittees filed for preference right leases. The Department refused to grant or reject them, however, because of the moratorium and subsequent litigation involving the PRLAs and the leasing program. This study focuses upon PRLAs pending as of January 1, 1980 and the permits from which they originated.*

Extent of Permitting

The 176 preference right lease applications studied in this report cover more than 400,000 acres and contain an estimated 5.8 billion tons of recoverable coal reserves. The Department of Interior estimates that these reserves could support mining operations with a combined yearly output of 251 million tons of

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*Since January 1, 1980, a few PRLAs have been cancelled, relinquished, or modified. Also, some previously cancelled PRLAs have been reinstated as valid applications as the result of successful appeals of earlier DOI decisions. The study sample in this report, however, is limited to those applications in effect on January 1, 1980 and reflects ownership and acreage as of that date.

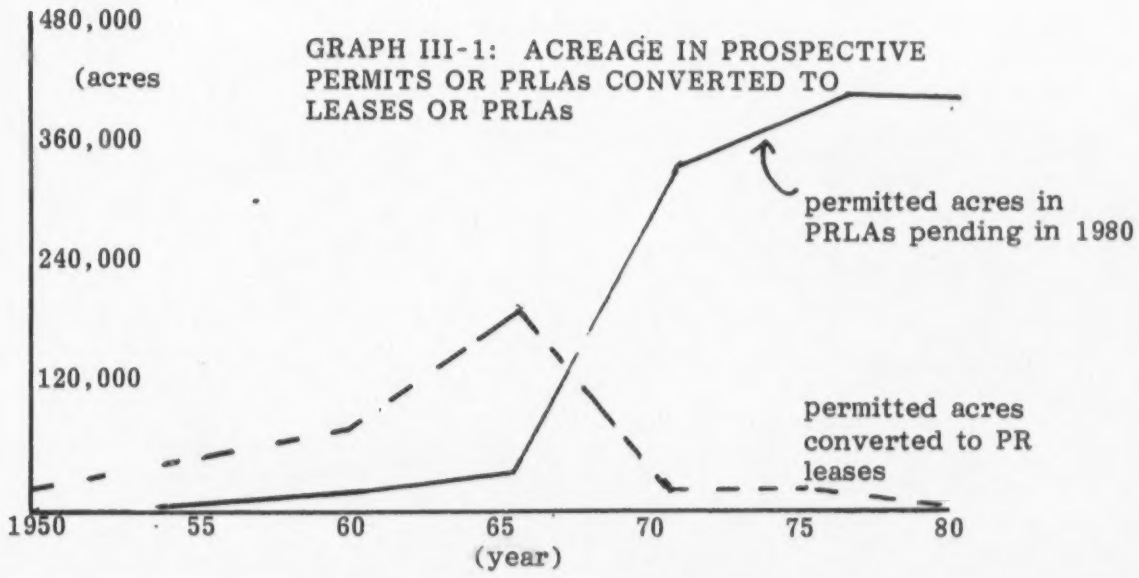
coal, more than three times the 1980 output from all federal land under lease. These PRLAs include more acres than are contained in currently valid leases issued under the preference right program since 1920.

The 176 PRLA's result from prospecting permits issued between 1955 and 1971. The vast majority were issued in the four years immediately preceeding the moratorium. However, four PRLA's--three in Alaska and one in Colorado--stem from prospecting permits issued before 1965. The history of prospecting permits eventually converted to PRLA's is shown in the middle two columns of Table III-1 and visually in Graph III-1. Total acreage under permit increased from 5,890 to 322,725 acres between 1965 and 1970 and peaked in 1975 at 415,619 acres. The slight reduction to 403,800 acres by January 1, 1980 primarily reflects acreage modifications by permit holders relinquishing non-coal bearing portions of PRLA's. The increase in the number of permits between 1975 and 1980 from 163 to 176 resulted from the splitting of previously issued permits into two or more permits, a process called "segregation" (See discussion below). When permits are segregated, the total acreage under permit does not change, although the total number of permits increases.

The far right column of Table III-1 indicates the number of acres covered by prospecting permits which were converted to preference right leases before the 1971 moratorium or in spite of it after 1971. The table shows the popularity of the prospecting permit system in the mid-sixties, when permitted land eventually converted to leases peaked at 204,729 acres. As the impact of

TABLE III-1: PROSPECTING PERMITS CONVERTED TO PREFERENCE RIGHT LEASE APPLICATIONS OR TO PREFERENCE RIGHT LEASES

	# of permits part of PRLAs in 1980	# of acres under permit part of PRLAs in 1980	# of acres under permit converted to PR leases
1950	0	0	6,389
1955	1	160	21,831
1960	2	2,720	59,804
1965	4	5,890	204,729
1970	103	322,725	11,737
1975	164	415,619	17,475
1980	176	403,800	0



GRAPH III-1: ACREAGE IN PROSPECTIVE PERMITS OR PRLAs CONVERTED TO LEASES OR PRLAs

the leasing moratorium spread, however, the amount of permitted acreage converted to leases declined sharply, and the ranks of permits converted to PRLA's swelled.

Graph III-1 traces the historical relationship between prospecting permits converted to leases or PRLA's. It reveals the rise and fall of permits converted to leases and the steep rise and levelling off of permits resulting in PRLA's. It also demonstrates the importance of the pending PRLA's relative to the historical role of prospecting permits in the leasing system.

Location of PRLA's

The 176 PRLA's pending in 1980 are scattered among 7 western states--Alaska, Colorado, Montana, New Mexico, Oklahoma, Utah and Wyoming (see Tables III-2 and III-3 and Chart III-2).

Wyoming, which has the third largest number of outstanding coal leases, has by far the largest portion of 1980 PRLA's: 74 permits covering 35% of all land under permit. Wyoming leads all states in terms of combined acreage of leases and PRLA's.

New Mexico, Utah and Colorado each contained approximately 80,000 acres within PRLA's in 1980. If these PRLA's are converted to leases, total leased acreage in New Mexico will triple, whereas leasing totals in Utah and Colorado will increase by 29% and 68% respectively. Alaska, Montana and Oklahoma each contained 4 PRLA's in 1980.

TABLE III-2: PRLAs BY STATE
AS OF JANUARY 1, 1980

state	# of PRLAs	acres under PRLAs	% of total acreage under PRLAs
Alaska	4	7,840	2%
Colorado	37	82,923	20%
Montana	4	14,673	4%
New Mexico	28	77,600	19%
Oklahoma	4	5,956	1%
Utah	25	75,598	19%
Wyoming	74	139,210	35%
TOTAL	176	403,800	100%

CHART III-2: ACRES UNDER PRLAs BY STATE
AS OF JANUARY 1, 1980

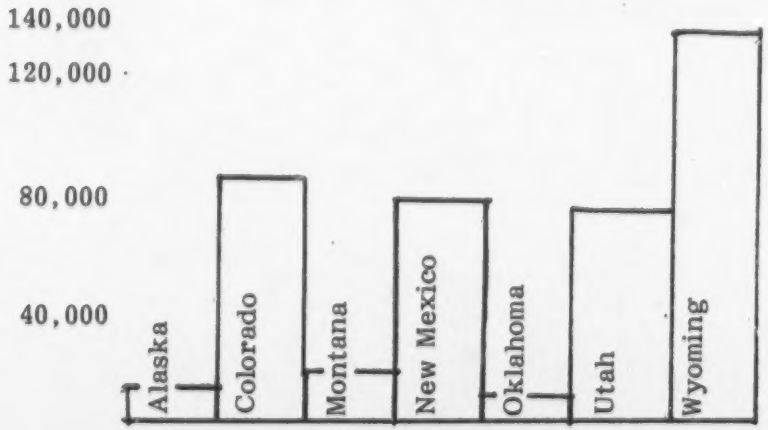


TABLE III-3

PRLA's BY STATE AS OF JANUARY 1, 1980

State	No. of PRLA's	Acreage Under PRLA	% of Total PRLA Acreage	In-Place Reserves	Recoverable Surface Reserves	Recoverable Deep Reserves
Alaska	4	7,840	2%	72.41	11.73	29.68
Colorado	37	82,923	20%	1473.20	613.21	285.24
Montana	4	14,673	4%	396.91	357.22	---
New Mexico	28	77,600	19%	2881.63	824.16	651.26
Oklahoma	4	5,956	1%	26.26	---	15.76
Utah	25	75,598	19%	1939.34	94.49	275.56
Wyoming	74	139,210	35%	2764.28	1622.19	848.57
TOTAL	176	403,800	100%	9554.03	3523.00	2106.07

SOURCE: U.S. Department of Interior - ACLDS and OTAs review of DOI case files.

Permit Acquisition Pathways

Each of the pending PRLA's covers land which originally was included in a prospecting permit granted by the federal government. This does not mean, however, that the ownership of a PRLA has not changed since permit issuance. Several pathways exist by which present PRLA holders have obtained applications. Each has played a distinct and important role in the history of the preference right leasing program.

De novo permitting (a term developed for this survey) refers to the Department of Interior's initial granting of a prospecting permit for land not covered by an existing permit. The recipient of a permit issued directly from the government is called the de novo owner.

Only 11 percent of 1980 PRLA's (19 of 176) were still owned by the party receiving the permit from the Department of Interior. (see Table III-4). Ownership of the other 89 percent of the PRLA's has changed at least once since de novo permitting. There are two mechanisms by which permit ownership transfers can occur: segregation (also called partial assignment) and assignment.

Permit segregation occurs when a permittee agrees to split the acreage contained in a permit into two or more units. A new permit and permittee are created for each of the new subunits. (The remaining acreage remains controlled by the segregator.) Segregations are usually initiated by permit holders and, although they require government approval, they are essentially private business transactions.

TABLE III-4: PRLA Acquisition Method Used By Owner as of January 1, 1980

Acquisition Method	# of PRLAs	% of total PRLAs
DeNovo	19	11%
Assignment	133	76%
First	-76	-43%
Second	-27	-15%
Third or more	-30	-18%
Segregation	24	14%

Thirty-three permits have been created by segregation. Ownership of 24 of these permits has not changed hands since segregation.

More commonly, rights to permitted acreage are transferred through a process called assignment. Pending Department of Interior approval, permittees are allowed to sell or assign their permits to other parties. Except for a few restrictions, the assignor is allowed to keep any cash, property, overriding royalty or other consideration included in the assignment. As are segregations, assignments are basically private transactions.

A total of 227 separate permit assignments, or about 1.3 assignments per permit, occurred between the issuance of the 176 PRLA's studied in this survey and January 1, 1980. Forty-three percent of all permits had been assigned once, 15 percent twice, 9 percent three times, and 9 percent four or more times.

Sixty-four percent of these permit assignments--145 of a total of 227--occurred after the moratorium began in 1971. Hence, the assignment pathway provided an opportunity for the entry of newcomers to the permit system, despite restrictive federal policies on the issuance of new permits.

The several types of permit assignments are defined by the relationship between the assignor and assignee. Most commonly, parties are not related and the assignor exchanges a permit for value received, such as cash, overriding royalties, interests in future production, or the cancellation of a debt. Other assignments are indirect: permits are transferred to an agent, who

subsequently transfers the permit to a new principal. By arranging to issue permits in the names of contracted land agents and obtaining them outright only later by assignment, principals can assemble large land packages in relative secrecy. Finally, lease assignments can occur among subsidiaries or divisions of a company. Several utilities and large energy companies, for example, have recently organized new coal mining or resource development subsidiaries and assigned permits, previously held in the name of the parent, to them. These assignments often contain cash payments and overriding royalties similar to assignments among unrelated parties.

A final avenue of entry by which parties can obtain coal permits does not entail a transfer of title. A company can buy--by merger or acquisition--a controlling interest in a company which holds permits, thereby obtaining control of them. Such mergers and acquisitions, as documented in the OTA report Patterns and Trends in Federal Coal Lease Ownership 1950-1980, are common among holders of federal leases. This survey uncovered four permittee ownership changes. Utah International, Inc. was acquired by General Electric Corporation in 1976; Peabody Coal Co. was divested from Kennecott Copper Corp. in 1978 and acquired by a six-company holding parent; Dupont acquired Conoco, Inc. which owned permits in the name of a subsidiary, Consolidation Coal Co.; and Gulf Oil Corp. purchased Kemmerer Coal Co. in 1981.

CHAPTER IV

PRLA OWNERSHIP HISTORY BY BUSINESS ACTIVITY CATEGORY

This survey examines preference right lease application ownership patterns and trends by separate companies, unincorporated individuals, and groups of companies with similar lines of principal business activity. All permittees are categorized into one of eleven groups. Each business activity category of permittee collectively held PRLAs covering at least 5% of all land included in outstanding PRLAs at one or more of the key analysis dates selected in the survey; January 1, 1970, 1975 and 1980. One of the groups includes PRLA holdings by unincorporated individuals. Seven of the groups include the collective holdings of several companies, each with similar lines of principal business activity. Two of the groups include holdings of individual companies, each of which has held at least 5% of all land under permit and which have unique lines of business activity which prevent their grouping in another category. The final category includes holdings of all PRLA holders not falling into one of the above ten groups.

Table IV-1 and IV-2 summarize the findings of the business activity portion of the PRLA ownership history analysis. Unincorporated individuals are and have always been the largest category of permittees, although their share of PRLAs have steadily declined. The major energy companies - based on worldwide petroleum production - large natural gas companies, nonresource-related diversified companies and electric utilities have all increased their

TABLE IV-1: TOTAL ACREAGE UNDER PRLAs BY BUSINESS ACTIVITY CATEGORY

	1965	1970	1975	1980-1981
unincorporated individuals	5,890	147,022	115,317	80,559
energy companies	-	22,008	30,738	74,411
natural gas companies	-	-0-	21,045	46,867
metals & mining companies	-	17,278	39,461	36,514
nonresource-related diversified companies	-	2,812	2,812	35,987*
electric utilities	-	-0-	3,113	34,658
oil and gas companies (minor)	-	25,786	34,375	33,845
land holding companies	-	23,519	28,639	5,120
Kemmerer Coal Company	-	33,190	39,160	-0-**
Intl Geomarine Corp. & Coal Conversion Co.	-	43,878	46,084	-0-
Other	-	6,972	54,615	52,762
Unknown	-	260	260	3,077

*Includes PRLAs held by Consolidation Coal Co. (Conoco) acquired in 1981 by Dupont.

**Kemmerer was acquired in 1981 by Gulf Oil Co.; Kemmerer's PRLA holdings are now included in the "energy companies" category.

TABLE IV-2: PERCENT OF TOTAL ACREAGE UNDER PRLAs BY BUSINESS ACTIVITY CATEGORY

	1965	1970	1975	1980-1981
unincorporated individuals	100%	46%	28%	20%
energy companies	-	7%	7%	18%
natural gas companies	-	0%	5%	12%
metals & mining companies	-	5%	9%	9%
nonresource-related diversified companies	-	1%	1%	9%*
electric utilities	-	0%	1%	9%
oil and gas companies (minor)	-	8%	8%	8%
land holding companies	-	7%	7%	1%
Kemmerer Coal Company	-	10%	9%	0%**
Intl Geomarine Corp. & Coal Conversion Co.	-	14%	11%	0%
Other	-	2%	13%	13%
Unknown	-	1%	1%	1%

*Includes PRLAs held by Consolidation Coal Co. (Conoco) acquired in 1981 by Dupont.

**Gulf Oil Corp. acquired Kemmerer Coal Co. in 1981; Kemmerer's PRLA holdings are now included in "energy companies" category.

holdings of PRLAs rapidly in the past decade. These industries rank second, third, fifth, sixth and seventh in terms of total PRLA holdings in 1980. Kemmerer Coal Company alone and a changing assortment of oil and gas companies have held relatively constant shares of PRLA acreage throughout the past decade. In 1981, however, Kemmerer was acquired by Gulf Oil Corp. PRLA holdings by metals and mining companies, substantial in 1970, have doubled during the past decade, while those of land holding companies have markedly declined. Finally, two related companies - International Geomarine Corporation and Coal Conversion Corporation - controlled more than 10% of all land under permit in the early and mid 1970's, but have assigned their permits since then.

The general trend in PRLA ownership over the past decade has been toward increased PRLA ownership by large, horizontally or vertically integrated, and diversified companies. PRLA ownership by individuals or small land holding companies without the technical or financial capability to initiate coal mining is on the decline. These general trends are similar to those discovered in an analysis of the ownership history of federal coal leases between 1950 and 1980. (See OTA Report entitled Patterns and Trends in Federal Coal Lease Ownership 1950-1980.)

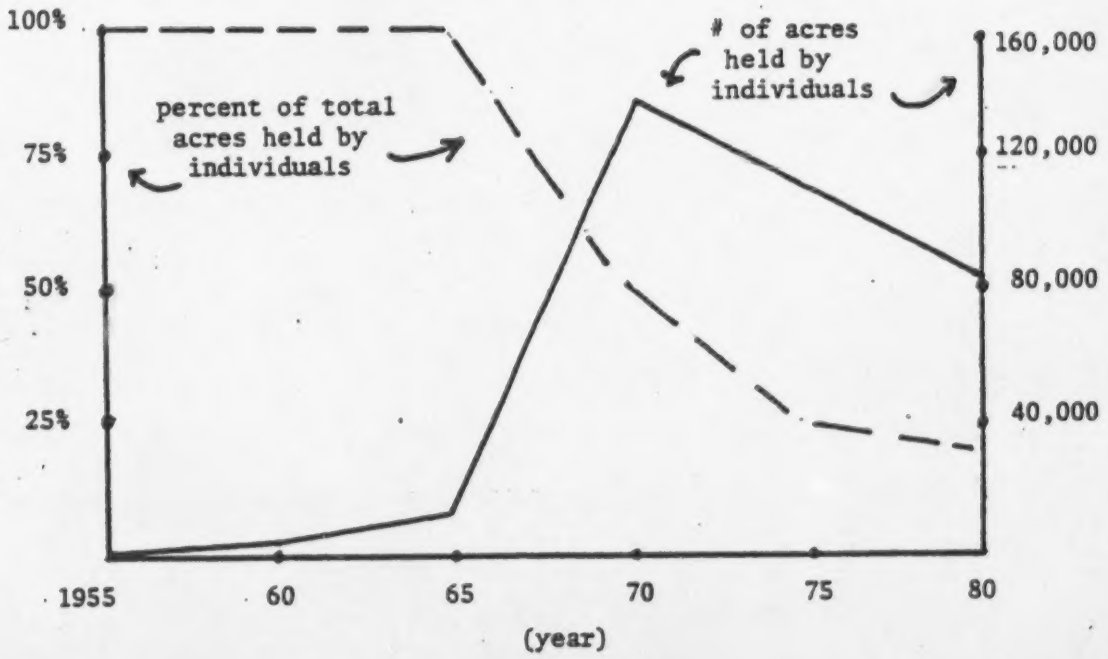
Unincorporated Individuals

Unincorporated individuals collectively constitute the largest category of permit holders, a position they have held at each analysis date in this survey. Table IV-3 summarizes permit holdings by individuals.

TABLE IV-3: PRLA HOLDINGS BY INDIVIDUALS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1955	1	160	100%
1960	2	2,720	100%
1965	4	5,890	100%
1970	46	147,022	46%
1975	45	115,317	28%
1980	46	80,559	20%

CHART IV-1: PRLA HOLDINGS BY INDIVIDUALS



All four prospecting permits issued before 1965 which were later converted to PRLAs were initially held by individuals. Three of these permits are in Alaska and one is in Colorado. Individuals acquired 42 more permits between 1965 and 1970, boosting their total acreage holdings to a historical peak of 147,022 acres. In the '70's, their permit holdings decreased to a 1980 total of 80,559 acres. The percentage of all permitted land held by individuals has dropped from 100% in 1965 to 20% today. Chart IV-1 displays this decline.

A decline in the importance of unincorporated individuals was uncovered during the OTA study of the history of lease, as opposed to PRLA, ownership. The decline of individuals as coal lessees has been much more precipitous than the rate of their departure from the list of PRLA holders. They now rank seventh among twelve lessee categories examined. Taken together, individuals control 123,773 acres of land under lease or PRLAs, ranking third among the eight business activity categories holding both leases and PRLAs.

An observation noted in the OTA analysis of the history of lease ownership was that as leases are moved closer to development under modern economic and market conditions, there's less opportunity for profitable involvement by individuals. They cannot successfully compete for capital or coal supply contracts and often have little state-of-the-art mining expertise behind them. This conclusion appears to be applicable for PRLA holders also. This survey notes a general pattern of assignment of PRLAs from parties - including individuals - with limited mining capabilities to large companies capable of opening coal mines. Since land covered by

PRLAs is further away from sustaining actual coal mining activity than leased land - only limited mine plan development is allowed until a lease is granted - the role of individuals as permittees is greater relative to their involvement in leasing. As PRLAs move closer to lease issuance, however, their role declines.

A total of 30 different individuals have owned PRLAs, including 18 permittees in 1980. Individuals holding permits include a few experienced coal miners, some people with close coal industry connections, and a larger number of land agents who have neither the capability nor the intent of mining coal themselves. As mentioned above, the decline in PRLA holdings by unincorporated individuals is part of a general industry trend away from coal mining by "sole proprietorship" small operations which are unable to compete in the modern coal market. The decline in PRLA ownership by unincorporated individuals acting as land agents - who seek to assign their permits in the future at a profit - stems in part from provisions of the Federal Coal Leasing Amendments Act of 1976 aimed at eliminating speculation in Federal leases and from the impact of the near moratorium on the sale of new leasing in the '70's which turned the attention of coal acquisition-minded companies toward the PRLAs.

Energy Companies

The major energy company category in this survey includes the 18 largest oil companies based on worldwide petroleum production. Each company produces more than 150,000 barrels of oil per day. Five of the 18 companies now hold PRLAs, but one of these companies, Conoco, Inc.,

was removed from the energy company category upon its acquisition by E.I. Dupont de Nemours & Co. in mid 1981. The remaining four companies hold 25 permits covering 74,411 acres, or 18% of all land under permit. As shown in Table IV-4, the energy majors held 7% of all land under permit in 1970, and modestly increased their holdings from 22,008 acres to 30,738 acres in the first half of the '70's. The biggest jump has occurred in the past five years as energy company permit acreage doubled. These data are displayed in Chart IV-2.

The major energy companies are now the second largest category of permit holders identified in this survey. They were also found, in the OTA lease ownership analysis, to be the second largest holder of outstanding federal coal leases, behind utilities. Together, however, energy companies control 229,435 acres of land under lease or permit, more than any single category identified in this survey.

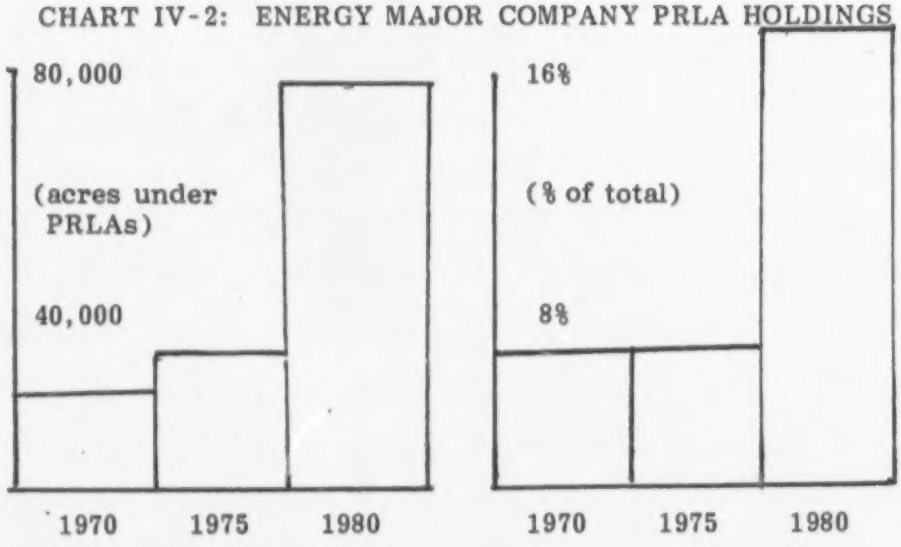
Only 7 of the 25 PRLAs now owned by energy majors were acquired de novo from the government: the others were obtained by assignment or were segregated from existing permits.

The Sun Oil Corporation was the first energy company to gain title to a PRLA. (See Table IV-5.) The company obtained four Utah permits de novo in 1969. In 1971, the company was reorganized and Sun Oil became the principal subsidiary of a newly formed diversified management company called the Sun Company, Inc. In 1974, the Sun Company organized a wholly-owned resource development subsidiary called Sunoco Energy Development Company. In 1977, the four permits were assigned from Sun

TABLE IV-4: ENERGY MAJOR COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	5	22,008	7%
1975	13	30,738	7%
1980	25	74,411	18%

CHART IV-2: ENERGY MAJOR COMPANY PRLA HOLDINGS



Oil to Sunoco Energy Development.

Mobil Oil Corporation also entered the permit market in 1969 by acquiring a Wyoming permit by assignment from a small resource development company. Mobil held the permit for several years before assigning it back to the same resource developer.*

TABLE IV-5: ENERGY MAJOR COMPANY PRLA HOLDERS

1970	Sun Oil Corporation Mobil Oil Corporation
1975	Sun Oil Corporation Continental Oil Corporation (Consolidation Coal Co.) Atlantic Richfield Corporation
1980	The Sun Company, Inc. (Sunoco Energy Development Co.) Atlantic Richfield Corporation Mobil Corporation (Mobil Oil Corp.) Gulf Oil Corporation (Kemmerer Coal Co.)

Note: subsidiary PRLA holders in parenthesis.

Mobil Oil reentered the western PRLA market in 1976 when it obtained 6 Colorado permits by assignment. All were owned by individuals prior to acquisition by Mobil. Mobil Oil Corporation itself was reorganized in 1976, and the oil company, formerly an independent corporation, became the major subsidiary of a new holding company called Mobil Corporation.

The Atlantic Richfield Company was the third energy company to garner PRLAs. It acquired 3 Wyoming permits de novo permits in 1970.

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* Mobil owned several other PRLAs in Wyoming in the early '70's, all of which have been assigned. The company owned none of these at either the 1970 or 1975 analysis dates and hence are not included in this section.

Consolidation Coal Company, a subsidiary of Conoco, Inc., acquired 6 Colorado permits in 1973 and 1974. One was obtained by assignment from Robert Bailey. The other 5 were segregated to Consolidation from other permits originally issued to Robert Bailey. Consolidation added a seventh Colorado permit in 1977 which was obtained by assignment from an independent land holding company.

Consolidation increased its share of PRLAs in 1977 by the acquisition of 7 permits in Wyoming. The permits were originally issued to Thomas Woodward in 1968 and were owned by Peter Wold before Consolidation acquired them by assignment.

As mentioned above, Consolidation Coal Company's holdings were transferred from the energy company category for the 1980 analysis date to reflect the company's acquisition by DuPont. The holdings were grouped in 1980 in the nonresource-related diversified category.

Finally, 12 permits acquired in the late 1960's and 1970's by Kemmerer Coal Co. were added to the energy company category for the 1980 analysis date because of Kemmerer's purchase by Gulf Oil Corporation. The Kemmerer PRLAs covered 39,160 acres in 1980. The ownership histories of these PRLAs is discussed in the Kemmerer Coal Co. subsection below.

Natural Gas Companies

Natural gas companies rank third among the business activity categories identified in this survey. They appear eighth on the list of leaseholding groups. Together, natural gas companies hold 83,184 acres of land under

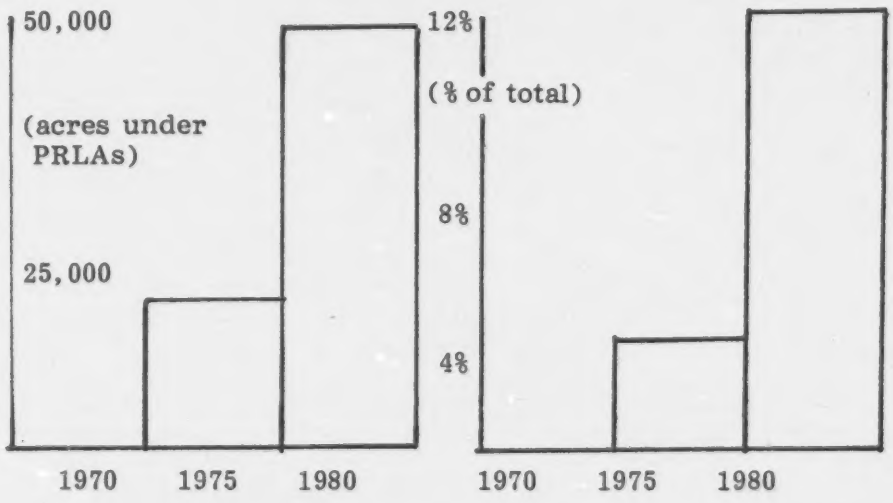
permit or lease, the fourth largest category in terms of combined holdings.

Natural gas companies are late arrivals to the PRLA scene. All of their permits were acquired after 1971. As shown in Table IV-6, the industry held 21,045 acres of land under permit by 1975, or 5% of the total. In the next five years, land holdings increased to 46,867 acres, 12% of the total. (See Chart IV-3.)

TABLE IV-6: NATURAL GAS PIPELINE COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	0	0	0
1975	12	21,045	5%
1980	27	46,867	12%

CHART IV 3: NATURAL GAS PIPELINE COMPANY PRLA HOLDINGS



Four natural gas companies held PRLAs in 1980, all in the name of subsidiaries or as part of joint ventures. (See Table IV-7.) A fifth company held two permits briefly in the '70's but has assigned them. All 27 permits held by these four companies in 1980 were obtained by assignment or were segregated from existing permits. 13 of the permits were associated in 1980 with joint ventures, an unusually high number among the industries examined in this survey.

TABLE IV-7: NATURAL GAS PIPELINE COMPANY PRLA HOLDERS

1970	none
1975	Pioneer Natural Gas Co. (Pioneer Nuclear, Inc.) Texas Eastern Transmission Corp. (Fannin Square Corp.)
1980	Texas Eastern Transmission Corp. (Fannin Square Corp.) Internorth Corporation (Northern Minerals Co.) The El Paso Company (El Paso Energy Resource Co.) Panhandle Eastern Pipeline Corp. (North Antelope Coal Co. - 50% ownership)

Note: subsidiary PRLA holders noted in parenthesis.

Pioneer Natural Gas Company of Texas obtained two permits de novo in 1971 in the name of its resource development subsidiary, Pioneer Nuclear, Inc. (formerly Amarillo Minerals, Inc.). Texas Eastern Nuclear, Inc. obtained a 50% interest in these permits in 1977, but the permits were then assigned to Dixie Natural Resources, Inc. several years later. Dixie Natural Resources is a subsidiary of a small resource development investment company based in California.

Texas Eastern Transmission Company acquired in 1972 a 50% interest in ten New Mexico permits through a subsidiary called Fannin Square Corporation. Fannin Square is a legal entity used by the company to hold title to

land. The other 50% interest in these PRLAs is held by Eastern Associated Properties Corporation, a subsidiary of Eastern Gas and Fuel Associates of Boston. All ten permits were originally issued to Marvin Weaster in 1968 or 1969 and assigned to Robert Cutherell in 1970 prior to acquisition by the two companies.

The El Paso Company recently acquired a large block of land covered by PRLAs in the name of its subsidiary, El Paso Energy Resources Company. Five of the twelve permits contained in this package were obtained by assignment and the other seven were obtained by segregation of existing permits. All twelve were originally issued to Page Jenkins or John Wold in 1967, and were owned by two corporations and one other individual prior to acquisition by El Paso in 1976 or 1977. (See International Geomarine Corporation section below.) El Paso first obtained the permits in the name of the parent company - El Paso Natural Gas Company - but transferred title to its coal subsidiary - El Paso Energy Resources Company - in 1977.

Three Wyoming PRLAs were acquired in 1977 by North Antelope Coal Company, a joint venture of Powder River Coal Company - a subsidiary of Peabody Coal Company - and Pan Eastern Coal Company - a subsidiary of Panhandle Eastern Pipeline Company. The three permits were segregated from other permits originally issued to Thomas Woodward. Peabody Coal initially owned two of the segregated permits; North Antelope was the first owner of the third segregated permit.

Northern Minerals Company, a subsidiary of Internorth Corporation, obtained title to two Colorado permits in 1979. Both were originally issued

to an individual and were held by an independent land holding company and by Consolidation Coal Company before the acquisition by Northern Minerals.

Metals & Mining Companies

Three companies grouped in the metals and mining category were among the earliest owners of PRLAs. (See Table IV-8.) In 1970, the industry controlled 17,278 acres of land under PRLAs, 5% of the total. Holdings approximately doubled over the next decade to 36,514 acres in 1980, 9% of the total. (See Table IV-9 and Chart IV-4.) The industry ranks fourth among the ten categories examined in this survey. It ranks eleventh among the twelve largest leaseholding categories identified in the companion OTA survey. Together, the industry control 54,134 acres of land under lease or PRLA, the seventh largest of the eight groups compared in this survey.

Utah Construction and Mining Company* acquired the first of its two permits by assignment from an individual, Joseph Sweeney, in November of 1965. It supplemented this Colorado permit with a Utah PRLA obtained de novo one year later. The company still holds both permits, but in 1976, General Electric acquired Utah International. The permits were regrouped in the "other" category in this survey after the General Electric acquisition.

Peabody Coal Company, the largest owner of federal coal leases, holds title to 17 PRLAs. Fourteen permits are held in entirety by Peabody and three are held by North Antelope Coal Company, a joint venture of Peabody and Panhandle Eastern Pipeline Company. (See Natural Gas

*Renamed Utah International, Inc. in 1971.

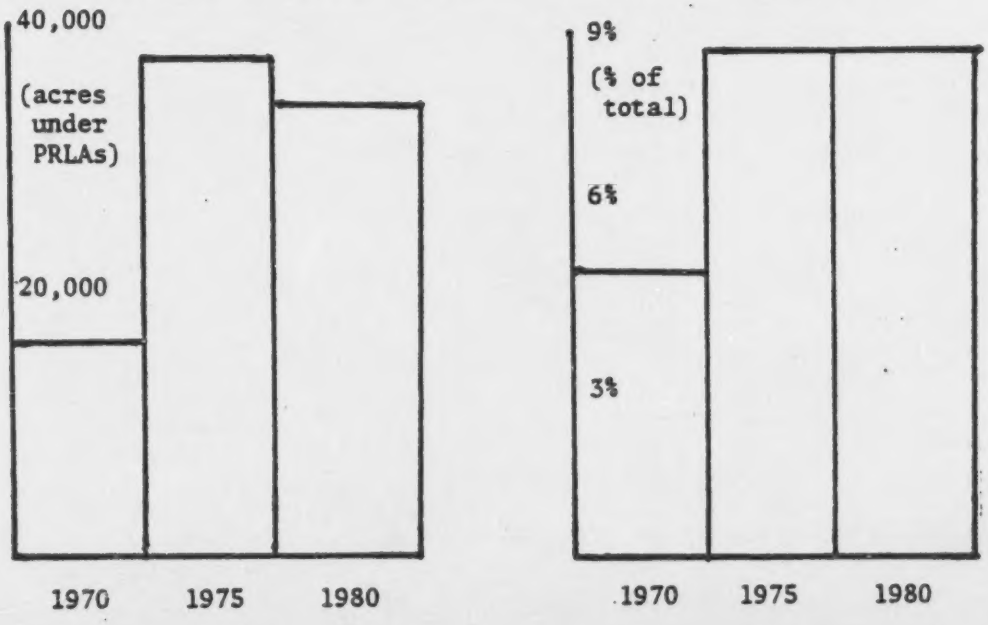
TABLE IV-8: METALS AND MINING COMPANY PRLA HOLDERS

1970	Utah Construction and Mining Co. American Metals Climax, Inc. (Meadowlark Farms, Inc.) Kennecott Copper Corp. (Peabody Coal Co.)
1975	Utah International, Inc. Amax, Inc. (Meadowlark Farms, Inc.) Kennecott Copper Corp. (Peabody Coal Co.)
1980	Amax, Inc. (Meadowlark Farms, Inc.)
Note:	subsidiary PRLA holders noted in parenthesis.

TABLE IV-9: METALS AND MINING COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAS held	% of total acreage under PRLAs
1970	7	17,278	5%
1975	24	39,461	9%
1980	13	36,514	9%

CHART IV-4: METALS AND MINING COMPANY PRLA HOLDINGS



Companies subchapter for a discussion of North Antelope Coal Company.) Peabody operated as an independent coal company until 1968 when it was purchased by Kennecott Copper Corporation. An anti-trust battle initiated by the Federal Trade Commission resulted in a divestiture order. In 1977, Kennecott divested Peabody to a holding company comprised of six firms and called the Peabody Holding Company, its present owner.* From 1968 to 1977, Peabody's permits were grouped in this survey in the metals and mining category. After 1977, they appear in the "other" group.

All of Peabody's permits are in Wyoming. The first two were acquired de novo in February 1968, by Sentry Royalty Company, a Peabody-owned land holding subsidiary, and assigned to Peabody later that year. A single permit was obtained de novo by Peabody in February 1970. Thirteen more permits, all of which were segregated from existing permits, were issued to Peabody between 1970 and 1972. Eight of these PRLAs result from permits originally issued to Thomas Woodward. The remaining five were derived from permits originally issued to Jane Wold and then assigned to J & P Corporation, Mobil Corporation, and back to J & P before undergoing segregation. After Peabody was purchased from Kennecott by the holding company, two of the segregated permits were assigned by Peabody to North Antelope Coal Company. North Antelope added a third permit in 1977, obtained by segregation from a permit owned by Peabody.

Amax, Inc. (name change from American Metals Climax, Inc. in 1974) was the third metals and mining company to acquire PRLAs: unlike the other two metals and mining companies which have held PRLAs, the company

*The six companies are: Newmont Mining Corp.; The Williams Co.; Bechtel Corp., The Boeing Corp.; Fluor Corp.; and the Equitable Life Assurance Society.

is still assigned to this category. All of Amax's 13 permits are held in the name of a subsidiary, Meadowlark Farms, Inc. Meadowlark was organized by Ayshire Collieries, an independent coal operator, as a land reclamation and agricultural subsidiary. American Metals Climax acquired Ayshire in 1969 and obtained Meadowlark in the transaction. Amax has used Meadowlark as a land holding vehicle as well as a reclamation and farming subsidiary.

The first three permits acquired by Meadowlark are in Montana. The permits were originally issued to John Wold in 1967 and subsequently assigned to BTU, Inc., a small Wyoming-based resource development company run by the Wold family, in early 1969. Meadowlark obtained them by assignment later that year.

Meadowlark added three Utah permits in 1973. All were previously held by Cayman Corporation, a southern California-based oil and gas company.

In July 1979, Meadowlark made its largest acquisition when it obtained seven Colorado permits. All were originally issued in 1970 to John Bailey and assigned two years later to Mintech Corporation, a subsidiary of Cameron Engineers. In 1977, the permits were assigned to Cameron Engineers, only to be acquired by Meadowlark two years later.

Nonresource-Related Diversified Companies

The nonresource-related diversified business category includes those companies with principal lines of business activities which are not energy or mineral resource related, but which complement or could be integrated with resource development. It includes high technology companies which produce

energy conversion equipment such as electrical generators and it includes chemical companies, for which coal mining could provide a new feedstock or the raw material for synfuel manufacturing processes they may develop.

In 1980, three companies falling into this category held 17 PRLAs covering 35,987 acres or 9% of all land included in PRLAs. (See Tables IV-10 and IV-11.) The permits held by these companies in 1980 represent a substantial boost over holdings in 1970 and 1975 falling into this category. (See Chart IV-5.) Nonresource-related diversified companies were the fifth largest business activity category holding PRLAs identified in this survey. The combined PRLA and lease holdings by this category in 1980 was 71,662 acres, the sixth largest among the 8 groups compared.

General Dynamics, through its subsidiary United Electric Coal Companies, was the first nonresource-related diversified company to acquire a PRLA. It obtained a New Mexico permit in 1967. In 1974, General Dynamics merged United with another subsidiary, Freeman Coal Company, to form Freeman United Coal Mining Companies. In 1976, the PRLA was assigned to the new subsidiary.

Two PRLAs held by Utah International, Inc. were added to this category in 1976, when the company, formerly an independent, was acquired by General Electric Company. The history of these permits is discussed in the metals and mining subsection of this chapter.

Finally, the nonresource related diversified category includes in 1980 the 14 PRLAs held by Consolidation Coal Company. Consolidation,

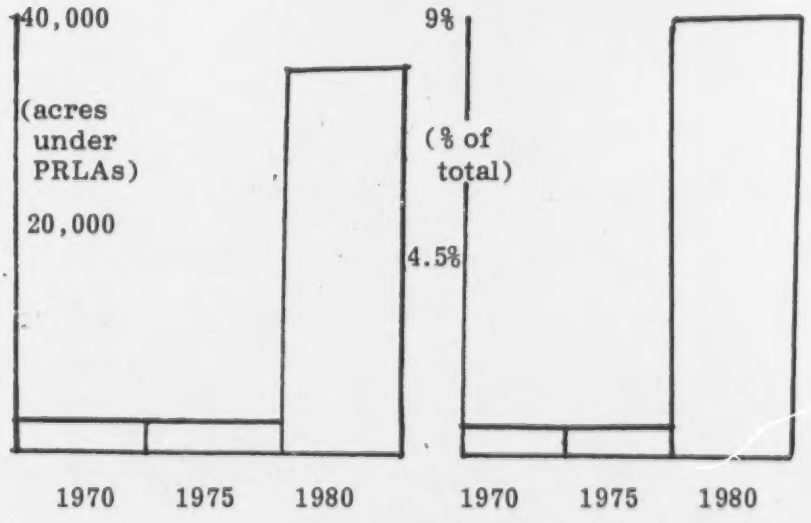
TABLE IV-10: NONRESOURCE-RELATED DIVERSIFIED COMPANY PRLA HOLDERS

1970	General Dynamics Corporation (United Electric Coal Companies)
1975	General Dynamics Corporation (United Electric Coal Companies)
1980	General Dynamics Corporation (Freeman United Coal Mining Companies) General Electric Corporation (Utah International, Inc.) E.E. Dupont Nemours & Company (Consolidation Coal Company)

TABLE IV-11: NONRESOURCE-RELATED DIVERSIFIED COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	1	2,812	1%
1975	1	2,812	1%
1980	17	35,987	9%

CHART IV-5: NONRESOURCE-RELATED DIVERSIFIED COMPANY PRLA HOLDINGS



owned by Conoco, Inc., was acquired by E.I. Dupont Nemours & Company in 1981 as part of the merger between the oil and chemical companies. The ownership histories of the Consolidation permits is discussed in the energy company subsection of this Chapter.

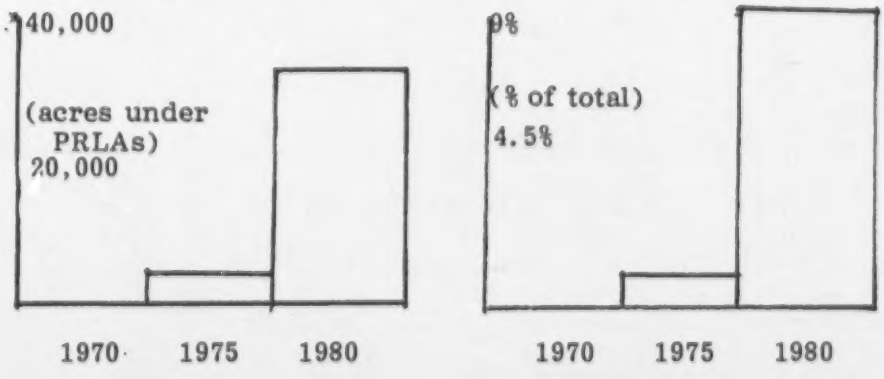
Electric Utilities

Electric utilities are the sixth largest of the ten PRLA holding categories identified in this survey. As shown in Table IV-12 and Chart IV-6, utilities in 1980 controlled 34,658 acres of land included in 14 PRLAs, or 9% of the total acreage under permit. Though not among the largest PRLA holding categories, utilities have been among the most PRLA active acquisition-minded companies during the past five years. Between 1975 and 1980, the total PRLA holdings of utilities have increased 10-fold.

TABLE IV-12: UTILITY COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	0	0	0
1975	2	3,113	1%
1980	14	34,658	9%

CHART IV-6: UTILITY COMPANY PRLA HOLDINGS



The companion OTA report examining the history of lease ownership found utilities to be the largest business activity groups in terms of total leaseholdings. Together, utilities control 197,917 acres of land under PRLAs or leases, ranking the industry second in terms of total holdings behind major energy companies.

Moon Lake Electric Association, Inc., a small Utah-based utility, became the first company in this category to acquire permits when it obtained, de novo, two Colorado applications in 1970. (See Table IV-13.)

TABLE IV-13: UTILITY COMPANY PRLA HOLDERS

1970	None
1975	Moon Lake Electric Association, Inc.
1980	Moon Lake Electric Association, Inc. Utah Power and Light Company Western Fuels Association, Inc.

Moon Lake, which purchases electricity from Utah Power and Light Company for distribution to its customers in central Utah, hopes to build its own generating plant near the Colorado-Utah border. The plant would be fueled with coal mined from reserves covered in part by these permits.

Western Fuels Association, Inc. obtained four Wyoming permits in 1976 by assignment from Eugene Stevens, their original owner. Western Fuels is a coal supply association of 25 primarily western and southern municipal and rural electric cooperatives. It supplied 2.5 million tons of coal to its members in 1979. Though Western Fuels does not actually generate or supply electricity itself, it is grouped with utilities in this survey because its membership is composed entirely of utilities.

Utah Power and Light Company is the most recent entrant into the PRLA market. In 1977, the Company acquired eight southern Utah permits by assignment. All were obtained from their original owners; two from W.L. Rasmussen and six from Delcoal, Inc. The Mineral Leasing Amendments Act of 1978 authorizes the Secretary of Interior to exchange these eight permits for leases elsewhere on public land. The exchange provision has yet to be implemented.

Oil and Gas (Minor) Companies

The oil and gas (minor) category includes companies whose principal business activity is oil or natural gas production but which are smaller than the 18 largest petroleum producers and not among the list of large interstate natural gas pipeline companies. As shown in Table IV-14, four such companies now hold PRLAs. Together, their holdings are 33,845 acres, or 8% of all land under permit. (See Table IV-15 and Chart IV-7.) Oil and gas holdings rank seventh among the ten business activity categories examined in this survey. There has been little change in the role of oil and gas companies in the PRLA program over the past decade.

TABLE IV-14: OIL AND GAS (MINOR) COMPANY PRLA HOLDERS

1970	Kerr McGee Corporation Hiko Bell Mining and Oil Company Cayman Corporation Woods Corporation (Woods Petroleum Corp.)
1975	Kerr McGee Corporation Hiko Bell Mining and Oil Company Ashland Oil and Hunt Interests (Ark Land Co.) Woods Corporation (Woods Petroleum Corp.)
1980	Kerr McGee Corporation Hiko Bell Mining and Oil Company Ashland Oil and Hunt Interests (Ark Land Co.) Woods Petroleum Corporation

Note: subsidiary PRLA holders noted in parenthesis.

Oil and gas companies in total control 79,771 acres of public coal land under lease or permit. Total holdings rank fifth among the eight categories compared in this survey.

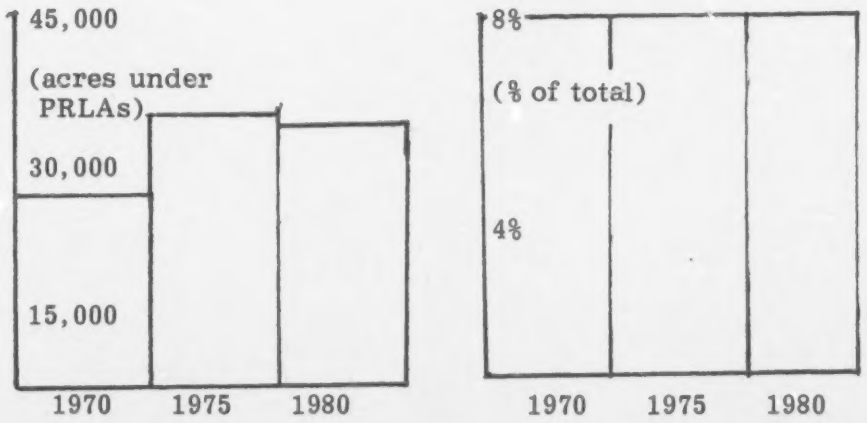
The Kerr McGee Corporation, though diversified into several energy fields, is still primarily involved in the gas and oil business. The company acquired de novo a small Oklahoma permit in 1965, which it still holds.

Hiko Bell Mining and Oil Company, a small Utah-based firm, acquired a single Utah permit by assignment from John Clark in 1968. It, too, retains title.

TABLE IV-15: OIL AND GAS (MINOR) COMPANY PRLA HOLDINGS

	# of PRLAs held	acreage of PRLAs held	% of total acreage under PRLAs
1970	8	25,786	8%
1975	9	34,375	8%
1980	16	33,845	8%

CHART IV-7: OIL AND GAS (MINOR) COMPANY PRLA HOLDINGS



The Woods Petroleum Corporation acquired three Utah permits de novo in 1969. Woods Petroleum was a subsidiary of the Woods Corporation until December 1975 when it was spun off as an independent corporation. The company still holds the three permits.

The Cayman Corporation, a southern Utah-based oil and gas exploration, production and service company, obtained title to three Utah permits in 1969. Two were obtained de novo and one was segregated from an existing permit. The company held the permits for four years, and then assigned them to Amax, Inc. subsidiary, Meadowlark Farms.

By far the largest holder of PRLAs among oil and gas companies is Ark Land Company. Ark Land is a land holding subsidiary of Arch Minerals, a coal mining company which in turn is owned by Ashland Oil Company and two companies controlled by the Hunt family, Hunt Enterprises and Hunt Petroleum Corporation.

In 1970, Ark obtained 51% interest in 7 southern New Mexico permits. The permits were originally issued either to Roger Badgett, Robert Anderson, Jr., or Arthur Stegelman. All three individuals list Madisonville, Kentucky business addresses on the permit forms. On December 1, 1970, the individuals assigned 51% interest in each permit to Ark Land.

Also in the early 1970's, Ark Land acquired four Wyoming permits. These PRLAs were initially obtained by Arkel Land Company, a predecessor to Ark Land, to which they were assigned several months after issuance.

Independent Land Holding Companies

Independent land holding companies (which are distinguished from unincorporated individuals acting as land agents), held 7% of all land under permit in 1970. Their role has declined over the past decade and the only company falling into this category in 1980 holds just 5,120 acres under permit, 1% of the total acreage under permit. (See Tables IV-16 and IV-17 and Chart IV-8.)

TABLE IV 16: LAND AGENT COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	9	23,519	7%
1975	11	28,639	7%
1980	2	5,120	1%

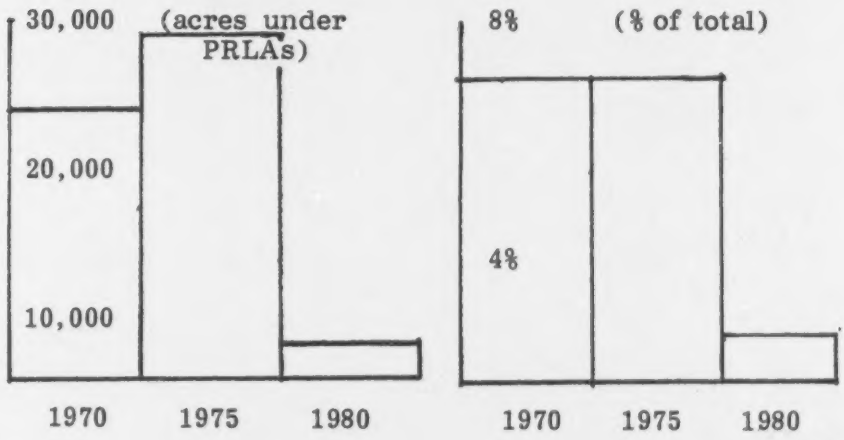
TABLE IV-17: LAND AGENT COMPANY PRLA HOLDERS

1970	Ember Mining Company Delcoal, Inc.
1975	Ember Mining Company Delcoal, Inc. Morgan Coal Company
1980	Morgan Coal Co.

The decline in the role of landholding companies among the list of PRLA holders is similar to the trend of this category in the leasing program. Total acreage under lease by this category dropped from over 43,000 acres in 1970 to just over 4,000 acres in 1980. Together, landholding companies

held 9,781 acres under permit and lease in 1980.

CHART IV-8: LAND AGENT COMPANY PRLA HOLDINGS



Changes in the Department of Interior leasing policies and passage of the Federal Coal Leasing Amendments Act of 1976 have influenced the level of involvement of land holding companies in both PRLA and leasing activities in the last decade. The moratorium on most new leasing in effect through most of the 1970's acted to increase the value of existing leases and permits. As a result, many land holding companies sold their rights in the applications. The diligent production provision of the Mineral Leasing Act Amendments - which requires lessees to initiate mining on leased land within ten years after the issuance of a lease - acted as an additional incentive for PRLA holders to seek mining companies to which to assign PRLAs since coal must be produced from the lease in commercial quantities within 10 years after the lease is issued or the lease is terminated.

Ember Mining Company, a small midwest land company, acquired three Colorado permits from their original owner James Goodwin in 1969.

Ember assigned all three to Consolidation Coal Company in 1977.

Delcoal, Inc., an independent land company until its acquisition by Piamco, Inc., another land company, obtained six southern Utah permits de novo in 1968. The permits were assigned by Delcoal in 1977 to Utah Power and Light Company.

Two Alaska permits were obtained by Morgan Coal Company by assignment in 1974. Both were originally issued to William Spears, one in 1962 and one in 1965. Mr. Spears was an employee of Morgan. The assignment to the land holding company occurred shortly after the death of Mr. Spears.

Kemmerer Coal Company

Kemmerer Coal Company is one of the oldest western coal producers. Begun by members of the Kemmerer family in 1887, the company has been mining coal from southwestern Wyoming coal fields for nearly a century. In 1926, the Kemmerer family reorganized its business interests and formed the Lincoln Corporation, a holding company of which Kemmerer became a subsidiary. The Lincoln Corporation holds an interest in several noncoal businesses.

Because of its unique ownership structure at the time, Kemmerer was analyzed separately in this survey at the 1970 and 1975 analysis dates. By the end of the 1970's Kemmerer's holdings had grown to the point where it ranked as the fourth largest owner of PRLAs among the business activity

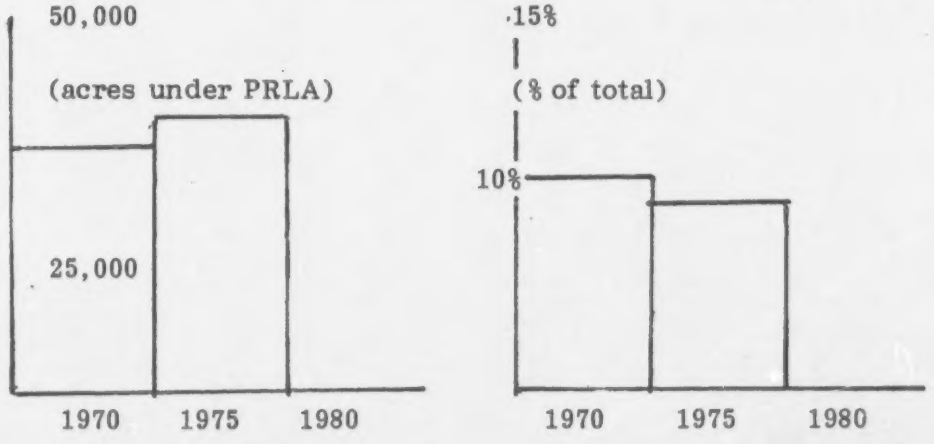
categories examined in this study. The Kemmerer Coal Company has been purchased by Gulf Oil Corporation, however. The Kemmerer PRLAs, therefore, were transferred into the energy company category for the 1980 analysis date.

As shown in Table IV-18 and Chart IV-9, Kemmerer Coal Co. owned 33,190 acres of land included in PRLAs in 1970, 10% of the total. Holdings grew slightly to 39,160 acres in 1975.

TABLE IV-18 KEMMERER COAL COMPANY PRLA HOLDINGS

	# of PRLAs held	acres of PRLAs held	% of total acreage under PRLAs
1970	10	33,190	10%
1975	12	39,160	9%
1980	0	0	0

CHART IV-9: KEMMERER COAL COMPANY PRLA HOLDINGS



Kemmerer's holdings in the 1970's included 12 PRLAs. Three Colorado permits were obtained de novo by Kemmerer, one in 1965 and two in 1970. The other Colorado permits were obtained by assignment from individuals in 1966. In 1968, Kemmerer acquired seven Wyoming PRLAs. Each permit was obtained by assignment from John Wanner, the original permittee.

International Geomarine Corporation and Coal Conversion Company

Two related companies, International Geomarine Corporation and Coal Conversion Corporation, held 13 PRLAs in Wyoming between January 1, 1969 and November 1, 1976. These companies held 43,878 acres of land under permit in 1970 and 46,084 acres in 1975. This constituted 14% and 11% of all land under permit at these respective dates. Neither of these companies have a principal line of business activity which falls into one of the general categories in this survey, but their substantial holdings - more than 5% - warrant their separate analysis.

On January 1, 1969, International Geomarine Corporation obtained 12 Wyoming PRLAs by assignment from Page Jenkins. A thirteenth PRLA was created that date from another permit owned by John Wold. The principal business activity of International Geomarine was exploration for underwater minerals.*

*Since its submarine exploration efforts were substantially different from the traditional metals and mining operations of companies such as Amax or Kennecott Copper, International Geomarine was not grouped in the metals and mining category in this survey.

Upon the assignment of the permits to International Geomarine, the company agreed to pay Page Jenkins $5,000, with an additional $45,000 due in 1968 and $50,000 in 1970. The agreement also called for International Geomarine to form a new company by July 1, 1969 to which to assign the permits. Jenkins was to receive major shares of stock in the new company.

In accordance with this agreement, International Geomarine did form a new company, called Coal Conversion Corporation, to which the permits were assigned on June 1, 1970. Coal Conversion invested about $500,000 in coal exploration on the land covered by the permits. The initial development plan called for the use of underground nuclear blasts as part of an in situ gasification operation. The project unsurprisingly was wrought with difficulties and in 1976, Coal Conversion assigned the permits. Five of these 13 PRLAs are now owned by El Paso Energy Resources Company, a subsidiary of the El Paso Company. The other 8 are once again owned by Page Jenkins and John Wold.

"Other"

The "other" permittees include those companies with principal lines of business activity not falling into one of the general categories examined separately in this survey and holding less than 5% of all land under permit on their own. In 1980, 13% of all land under permit was owned by lessees falling in the "other" category.

Eastern Associated Properties Corporation, a subsidiary of Eastern

Gas and Fuel Associates, acquired in 1972 50% interest in 10 New Mexico PRLAs covering over 18,000 acres with Fannin Square Corporation, a Texas Eastern Transmission Corporation subsidiary. Eastern Gas and Fuel Associates is involved in oil, natural gas, coal, and maritime transportation businesses. These PRLAs are also discussed in the natural gas company subsection of this chapter.

Thermal Energy Company, a joint venture formed in 1960, owned 7 other New Mexico PRLAs in 1980. Most participants in thermal energy are small and interrelated and include: Termenex Corporation, Endenvex Corporation, Texall Exploration Company, Inc., and Sabine Production Company. Thermal Energy acquired the permits in 1971 by assignment from individuals. In that year, it signed an agreement with Peabody Coal Company to jointly develop 5 of the 7 properties.

Only one independent coal mining company was identified in this survey among the list of present and past PRLA owners. Reliable Coal and Mining Company, a small midwest coal company, obtained a 260 acre Colorado permit by assignment in 1977. It retains control today. The involvement of independent mining companies in the leasing program, as analyzed in the companion OTA report, has declined from 1950 to 1980 to a point where independents hold only 6% of all land under lease as opposed to 35% thirty years ago. The minimal PRLA holdings of independents suggests that, if PRLAs are converted to leases, the status of independents in the leasing picture will further decline.

The 17 permits held by Peabody Coal Company are included in the "other" category beginning in 1978 when Kennecott Copper, its owner since 1968, divested it to the Peabody Holding Company. Six firms hold shares in the holding company, including Newmont Mining, Fluor Corporation, Bechtel, the Williams Company, Boeing, and the Equitable Life Assurance Society. The history of the Peabody PRLA holdings is contained in the metals and mining section of this chapter.

Rosebud Sales Company, a coal mining subsidiary of the construction and mining company Peter Kiewit Sons, Inc., owns two Wyoming PRLAs. Both were obtained de novo in 1967.

Three independent resource development companies have held PRLAs during the last decade. BTU, Inc. and the J & P Corporation are both controlled by the Wold family (individuals in the family also have held considerable permit acreage in their own names). BTU, Inc. acquired two Wyoming permits by assignment in 1976. The J & P Corporation held several Wyoming permits twice in their histories. Each was obtained by assignment from Jane Wold and assigned briefly to Mobil Oil Corporation. BTU and J & P no longer hold any PRLAs. Mountain States Resources Corporation is the third resource development company. It obtained a Utah permit by assignment from Don Hunter in 1972.

Kin Ark Corporation of Tulsa, Oklahoma obtained a New Mexico permit by assignment from Hoover Wright in 1973. Kin Ark is a diversified chemicals, galvanizing, and hotel management company.

Finally, 8 Colorado permits, held in the mid-70's by Mintech Corporation, a subsidiary of Cameron Engineers, were grouped in the "other" category until they were assigned to Amax, Inc.'s subsidiary, Meadowlark Farms.

CHAPTER V

PRLA OWNERSHIP HISTORY BY TYPE OF BUSINESS ORGANIZATION

As part of this study's methodology, each holder of a prospecting permit or a PRLA at any of the key analysis dates was placed into one of the following business organization groups:

Unincorporated individuals
Independent corporations
Subsidiary corporations
Multicorporate entities

Permit holders were categorized according to their business organization at the analysis date or dates on which they held PRLAs with the exception of the January 1, 1980 analysis date. The categories to which owners of PRLAs in 1980 were assigned reflect their business organization as of mid 1981.

It is an assumption of this survey that differently organized businesses inherently vary in coal mining capability, decision-making pathways, ultimate objectives, spheres of influence, and suceptibilities to government regulation. Analysis of the status and trends of the business organization of PRLA holders is useful for the determination of the development potential of land covered by PRLA's and of the role of permittees in the restructuring of the western coal industry.

The findings of this survey with respect to business organizations closely parallel the conclusions of a similar O&A analysis of present and

past coal lessees (See Patterns and Trends in Federal Coal Lease Ownership 1950-1980). The PRLA holdings of unincorporated individuals and independent corporations--formerly the dominant business organizations among permittees--are declining, while the relative importance of subsidiary corporations and multicorporate entities is increasing: these two groups now hold more than two-thirds of the land under permit. Table V-1 summarizes these shifts.

TABLE V-1: PER CENT OF TOTAL ACREAGE UNDER PRLAs HELD BY BUSINESS ORGANIZATION CATEGORY

	1955, 1960, and 1965	1970	1975	1980
unincorporated individuals	100%	46%	28%	20%
independent corporations	0%	33%	26%	12%
subsidiary corporations	0%	21%	30%	46%
multicorporate entities	0%	0%	16%	22%
	100%	100%	100%	100%

Unincorporated Individuals

Unincorporated individuals embody the simplest form of business organization possible. Individuals currently hold applications covering 20% of all land under permit. Compared to their role in the leasing program, in which they hold only 6% of all leased land, individuals maintain a significant level of involvement in the PRLA system. As

with individual lessees, however, the number of individual permittees is on the decline. Until 1965, all permits destined to become PRLA's were owned by individuals. In 1970, 46% of all permitted land was held by individuals, and individuals were still the largest business organization category of permit holders. By 1975, total individual permit holdings dropped sharply to 28%, and have fallen another 8 percentage points since then.

Without either the legal protection or access to capital provided by incorporation, individuals are in a poor position to initiate major exploration or mining programs. As a coal land development project moves closer to actual production in the modern economy, individuals are less able to participate effectively. Since PRLA's, by definition, are further removed from actual production than leased land--because their conversion to leases, a significant step in the development pathway, has not occurred--it is not surprising that individuals hold a greater share of PRLA's than leases. As the PRLA's move closer to final disposition, however, it is likely that as a category of permittees, individuals will decline in importance relative to other business organizations.

Independent Corporations

Total PRLA holdings and the percentage of total land under permit held by independent corporations is also declining. From a high of 33% of all land under permit in 1970, PRLA holdings by independent corporations fell to 26% in 1975, and then steeply downward to 12% in 1980.

The list of independent corporations holding PRLA's on January 1, 1980 appears in Table V-2.

TABLE V-2: INDEPENDENT CORPORATIONS HOLDING PRLAs ON JANUARY 1, 1980

Morgan Coal Co.
Moon Lake Electric Association, Inc.
Reliable Coal and Mining Co.
Kin-Ark Corp.
Kerr-McGee Corp.
Hiko Bell Mining and Oil Co.
Mountain States Resources Corp.
Utah Power and Light Co.
Atlantic Richfield Company

Subsidiary Corporations

The decline in PRLA ownership by unincorporated individuals and independent corporations was caused primarily by a large increase in PRLA holdings by companies which are subsidiaries of other "parent" companies. Subsidiary corporation leaseholdings have steadily increased over the past decade, from 21% of all permitted land in 1970, to 30% in 1975, and to 46% today. Subsidiaries are by far the dominant permittee business organization today. The list of all subsidiaries presently holding permits and their parent companies appears on Table V-3.

TABLE V-3: SUBSIDIARY CORPORATIONS HOLDING PRLAs ON JANUARY 1, 1980 AND THEIR PARENT COMPANIES

Permittee	Parent
Kemmerer Coal Co.	Gulf Oil Corp.
Utah International, Inc.	General Electric Corp.
Northern Minerals, Inc.	Internorth Corp.
Consolidation Coal Co.	E.I. Dupont DeNemours & Co.
Meadowlark Farms, Inc.	Amax, Inc.
Mobil Oil Corp.	Mobil Corp.
Freeman United Coal Co.	General Dynamics Corp.
Sunoco Energy Development	The Sun Company, Inc.
Woods Petroleum Corp.	The Woods Corp.
Rosebud Coal Sales Co.	Peter Kiewit Sons, Inc.
El Paso Energy Resources Co.	The El Paso Corp.

The increase in holdings by subsidiary corporations has occurred by four pathways. The most significant has been the acquisition of existing permits through assignment or segregation. Through these transactions, permits previously held by individuals or independent corporations have been acquired by subsidiary corporations. Chapter IV contains numerous examples of such assignments and segregations. Secondly, subsidiary corporations have obtained a few permits de novo and have either retained ownership (although a total of only 11% of all permits remain in the hands of the de novo permittee) or have assigned them only to other subsidiary corporations. Chapter IV also contains examples of this process. Thirdly, some independent corporate permittees have undergone internal reorganization, changing the permitting entity to a subsidiary. For example, Mobil Oil Corp., formerly an independent corporation, has become the principal operating subsidiary of a new holding company, The Mobil Corp. Similarly, Sun Oil is now a subsidiary of The Sun Company, Inc. The permits held by the former parent were reassigned to the subsidiary category in this survey when such reorganization took place. Finally, one company, Utah International, Inc., formerly an independent corporate permittee, was itself acquired by General Electric Co. in 1976, and accordingly, its permits were reassigned to the subsidiary category. Corporate mergers or acquisitions have been considerably less common in the history of coal permittees than in the history of coal lessees, however.

The dominance of subsidiary corporate permittees is particularly clear among companies whose principal line of business activity is coal mining. While only a single 260 acre permit could be identified as belonging to an independent coal company, 41 permits covering 96,653 acres were found to belong to coal mining companies that are subsidiaries of other ("parent") companies.

Multicorporate Entities

Multicorporate entities, including companies wholly owned by two or more companies (such as joint ventures) and two or more companies sharing ownership interests in PRLAs, are the most recent business organization to gain title to a significant share of PRLAs. No multicorporate entities held PRLAs before 1971, but by 1980, 45 PRLAs covering 22% of the total land under permit, were held by multicorporate entities.

Peabody Coal Co. owns more PRLAs than any company falling into this multicorporate category. It holds 14 PRLAs in its own name and three through a joint venture with a subsidiary of Panhandle Eastern Pipeline Co. The joint venture is called North Antelope Coal Co. and the ownership history of the three PRLAs held by it is detailed in the natural gas pipeline company section of Chapter IV. Peabody Coal Co. alone was categorized in this survey as a multicorporate entity upon its acquisition in 1978 from the Kennecott Copper Corp. by the Peabody Holding Company. Six corporations share ownership in the Peabody Holding Company - Newmont Mining Corp. (27.5%), The Williams Co. (27.5%), Bechtel Corp. (15%), The Boeing Corp. (15%), Fluor Corp. (10%),

and The Equitable Life Assurance Society (5%). The ownership history of 14 PRLAs held solely by Peabody on January 1, 1980 is summarized in the metals and mining subchapter of Chapter IV.

Ten permits co-owned by subsidiaries of Texas Eastern Transmission Corp. and Eastern Gas and Fuel Associates. The history of these New Mexico permits is explained in the natural gas pipeline subchapter of Chapter IV.

Seven other New Mexico permits are owned by a joint venture called Thermal Energy Co. While the partners in Thermal have changed since its formation in 1960, it is currently owned by six companies, several of which are in the oil and gas business. These permits and Thermal Energy are described more completely in the "other" subchapter of Chapter IV. It is interesting to note that Thermal Energy has filed an application to assign a 50% interest in five of its permits to Peabody Coal Co. If this assignment is approved, it will create the most complicated ownership structure found in the PRLA program. Thermal, a joint venture of six companies, will join in another joint venture with Peabody Coal Co., which itself is owned by a holding company run by six corporations.

Eleven New Mexico and Wyoming PRLAs held by Ark Land Company were the final permits to be categorized with the multicorporate entity group. Ark Land is owned by Arch Minerals Co. which in turn is jointly owned by Ashland Oil Company, Hunt Enterprises, and Hunt Petroleum Corporation. The ownership histories of these PRLAs is discussed in the oil and gas (minor) subsection of Chapter IV.

CHAPTER VI

METHODOLOGY

This report analyzes ownership patterns and trends throughout the history of 176 pending preference right lease applications pending on Jan. 1, 1980 and examine the issues surrounding the future disposition of the PRLAs. The methodology for this study is similar to the one used during the preparation of a companion OTA report, Patterns and Trends in Federal Coal Lease Ownership 1950-1980. The preference right lease application study was conducted during four time periods between November 1979 and December 1981. Most data were collected during a three month period between November 1, 1979, and February 1, 1980. Most initial data analysis and the preparation of a first draft report occurred between May 15 and July 15, 1980. After receiving extensive in-house review, another study draft was prepared between October and December 1980. Final revisions and updated information were incorporated in December 1981. The project staff included a principal investigator, a research associate, and an OTA staff person, working with the assistance of a typist and other OTA personnel.

Data Collection

The major data collection task in this study was to obtain a complete historical record of the various owners of each coal prospecting permit upon which each PRLA is based, the dates of all title transfers, and a history of all modifications in permit acreages. This information was obtained for each of the PRLAs contained on a "master" list developed by OTA from the automated coal lease data system maintained by the Department of Interior and provided to the contractor in October 1979.

The primary records of coal prospecting permits and PRLAs are maintained at state Bureau of Land Management (BLM) offices. Between November 16 and December 21, 1979, these records - generally contained in "serial books" and "case files" - were examined by project staff at the BLM state offices in Santa Fe, New Mexico; Denver, Colorado; Cheyenne, Wyoming; Billings, Montana; and Salt Lake City, Utah. Information concerning 4 PRLAs in Alaska was obtained through telephone interviews and correspondence with the Fairbanks and Anchorage, Alaska BLM offices.

In addition to the case files and serial books, the research team examined the "corporate qualifications statements" for as many of the PRLA holders for which the BLM maintains records. These statements are usually contained in files housed in the offices of land law examiners at each state BLM office.

All relevant information gathered during the data collection phase was recorded on worksheets, one for each PRLA and one for each PRLA owner, which were specially designed for this project and approved by OTA in early November, 1979.

Data Organization

To provide an historical perspective of PRLA ownership, three key dates were selected for in-depth analysis: January 1, 1970, 1975, and 1980. For the four PRLAs which derive from permits issued before 1965, three additional analysis points were established: January 1, 1955, 1960, and 1965. The ownership of each of the prospecting permits in existence at each of the

key dates was recorded in ledger books as was the correct acreage at the relevant date. From these tabulations, total acreage under permit at each key date and the total number of outstanding permits were calculated and a complete list of permittees was developed.

Permittee Analysis

Next, each permit holder was placed in an ownership category defined by the principal lines of business activity of the permit holder - if an individual or an independent corporation - or the principal business activity of the holder's controlling interest - if a wholly owned subsidiary or a multicorporate controlled entity. Any business activity category whose members controlled 5% of the land under permit at any of the analysis dates was identified for separate further analysis. Also, any lessee not falling clearly into an identifiable business activity category, but which on its own controlled 5% of permitted land at any analysis date was separated for individual attention. All other permittees were combined into an "other" category. Categorizations were made for each permit holder based on the business activities most dominant at the analysis date or dates on which they held permits with the exception of permit holders on January 1, 1980 which have changed ownership status due to mergers and acquisitions since then. Business activity categorization of these companies reflect their status as of mid-1981.

The major sources of information for this phase of the study include the corporate qualification statements at the BLM; company annual reports; standard industry reference text, such as Moody's Public Utilities and Industrial Guides; interviews with state government, BLM, and U.S. Geological Survey officials,

land law examiners and coal specialists; interviews with members of the coal mining industry and the permit holders themselves; and newspapers and periodicals, such as the Wall Street Journal, Coal Age, and Coal Outlook.

The business activity categories and individual permit holding companies meeting the criteria described above for individual analysis are:

Unincorporated individuals
Energy companies
Natural gas companies
Metals and mining companies
Nonresource-related diversified companies
Electric utilities
Oil and/or gas (minor) companies
Land holding companies
Kemmerer Coal Company
International Geomarine Corporation and
Coal Conversion Corporation
"Other" companies

Similarly, each present and past permit holder was categorized as to its type of business organization structure, using the following OTA approved list as a guide:

Unincorporated individuals
Independent corporations
Wholly owned subsidiary corporations
Multicorporate entities

As in the business activity categorizations, the grouping of 1980 permit holders by business organization reflects their status as of mid-1981.

Final Data Analysis

With the history of each permit and permittee information in hand, it was possible to analyze permit ownership patterns and trends. Lists of companies or individuals holding permits at each of the analysis dates were made and reorganized into the business activity categories and business organization

categories described above. The total number of permits and acreage falling into each category was then tabulated. From this information, it was possible to analyze quantitatively changes over time in permit ownership in relative and absolute terms.

Returning to the worksheets, it was then possible to investigate the acquisition routes for permits eventually obtained by their 1980 owner.

Issues Analysis

This report discusses the various legal, administrative, technical, and environmental issues surrounding the final processing of the outstanding preference right lease applications. This section of the report is based on information collected from many Department of Interior studies, task force reports, and memoranda on the topic. Additional information was collected from legal briefs and other documents submitted during court cases involving PRLAs; from interviews with government industry and public interest group representatives; and from newspaper and periodical articles (see bibliography).

A P P E N D I X

PRLA OWNERS AND BUSINESS CATEGORIES

1980-1981

PRLA OWNERS BY BUSINESS CATEGORY

DECEMBER 1980
(With updates for changes in 1981)

BUSINESS CATEGORY	STATE	PRLAS	ACRES
ENERGY MAJORS:		25	74,411
The Sun Company, Inc.	Utah	4	18,374
Atlantic Richfield Corp.	Wyoming	3	597
Mobil Corporation	Colorado	6	16,160
Gulf Oil Corporation	Wyoming	7	29,291
(Kemmerer Coal Co.)*	Colorado	5	9,866
NATURAL GAS COMPANIES		27	46,867
Texas Eastern Transmission Corp (Fannin Square Corp.) 50% **	New Mexico	10	17,969
Internorth Corporation (Northern Minerals)	Colorado	2	4,526
The El Paso Company (El Paso Energy Resource Co.)	Wyoming	12	23,928
Panhandle Eastern Pipeline Corp (North Antelope Coal Co., Inc) 50% ***	Wyoming	3	400
METALS AND MINING COMPANIES		13	36,514
Amax, Inc. (Meadowlark Farms, Inc.)	Colorado	7	14,154
	Montana	3	10,997
	Utah	3	11,360
NONRESOURCE-RELATED DIVERSIFIED COMPANIES		17	35,987
General Dynamics Corporation (Freeman United Coal Mining Co.)	New Mexico	1	2,812
General Electric Corporation	Colorado	1	2,082
(Utah International, Inc.)	Utah	1	560
E.F. Dupont de Nemours & Co.	Colorado	7	16,743
(Consolidation Coal Co.)*	Wyoming	7	13,784
ELECTRIC UTILITIES		14	34,658
Moon Lake Electric Association, Inc. (Western Fuels Assoc.)	Colorado	2	3,112
Utah Power & Light Co.	Utah	8	18,325
Western Fuels Association, Inc.	Wyoming	4	13,216

BUSINESS CATEGORY	STATE	PRLAS	ACRES
OIL AND GAS (MINOR) COMPANIES		16	33,845
Kerr McGee Corporation	Oklahoma	1	247
Hiko Bell Oil and Mining Co.	Utah	1	640
Ashland Oil and Hunt Interests			
(Ark Land Co.) 51% ****	New Mexico	7	11,143
(Ark Land Co.) 100%	Wyoming	4	8,202
Woods Petroleum Corporation	Utah	3	13,609
INDEPENDENT LAND HOLDING COMPANIES		2	5,120
Morgan Coal Co.(Miller Spears Est.)	Alaska	2	5,120
"OTHER " COMPANIES		39	32,762
Eastern Gas and Fuel Associates 50% (Western Associates)**	New Mexico	10	17,969
Thermal Energy Company	New Mexico	7	12,032
Reliable Coal and Mining	Colorado	1	259
(Western Fuels Association,Inc., operator)			
Peabody Coal Company	Wyoming	14	13,581
(Peabody Holding Company)***	Wyoming	3	440
Peter Kiewit Sons, Inc.	Wyoming	2	3,028
(Rosebud Sales Company			
Mountain States Resources Corporation	Utah	1	2,563
Kin Ark Corporation	New Mexico	1	2,880
UNINCORPORATED INDIVIDUALS		41	80,559
Russell W. Chapman and Paul Riebold	Colorado	1	640
R.J. Hollberg	Utah	1	3,795
Kenneth R. Gaither	Oklahoma	3	5,708
John W. Hand	Colorado	1	160
Jensen and K.W. Miller Est.	Colorado	1	480
(Northern Minerals, operator)			
Gerald T. Tresner	Colorado	3	14,730
(Dorchester Colomine, operator)			
Edwin Read	Alaska	1	2,560
Emil Usibelli Est.	Alaska	1	160
Fred C. Woodson	Montana	1	3,676
	Wyoming	2	5,520
John S. Wold and Page T. Jenkins	Wyoming	13	23,895
John S. Wold	Wyoming	1	80
Jesse H. Knight	Utah	3	6,367
H.N. Cunningham	New Mexico	2	2,081
Rogers Badgett 49% ****	New Mexico	2	3,288
Arthur Stegelman 49% ****	New Mexico	2	2,775
Robert Anderson 49% ****	New Mexico	3	4,644

NOTES:

Sum of acreage of individual PRLA holdings may not add to category totals because of independent rounding

* In 1981, Gulf Oil Corp. acquired Kemmerer Coal Co. Kemmerer and Consolidation Coal Co. (now owned by Dupont) each own 50% of a PRLA in Jackson County, Colorado. This 440 acre Colorado PRLA is included under Kemmerer's holdings in this survey because the assignment was not yet recorded in BLM land records when the survey was completed.

** Texas Eastern Transmission Co.'s subsidiary, Fannin Square Corp. and Eastern Gas and Fuel Associates (Western Associates) each own 50% of 10 New Mexico PRLAs Half of the total acreage is included in "Natural Gas Companies" and half is in "Other".

*** North Antelope Coal Co., a subsidiary of Panhandle Eastern Transmission Co., holds 50 % of 3 Wyoming PRLAs; the other 50% is owned by Peabody Coal Co. Half of the total acreage has been included in each category

**** 51% ownership of these PRLAs is held by Ark Land Co. a subsidiary of Arch Minerals; 3 individuals control 49% of the PRLAs. The acreage has been split accordingly between the two categories.